

# SEVENTY-SIXTH DAY

---

FRIDAY, MAY 16, 1997

---

## PROCEEDINGS

The Senate met at 9:00 a.m. pursuant to adjournment and was called to order by the President.

The roll was called and the following Senators were present: Armbrister, Barrientos, Bivins, Brown, Cain, Carona, Duncan, Ellis, Fraser, Gallegos, Galloway, Harris, Haywood, Lindsay, Lucio, Luna, Madla, Moncrief, Nelson, Nixon, Ogden, Patterson, Ratliff, Shapiro, Shapleigh, Sibley, Truan, Wentworth, Whitmire, Zaffirini.

Absent-excused: West.

The President announced that a quorum of the Senate was present.

Deacon Douglas Morris, Saint John Neumann Catholic Church, Austin, offered the invocation as follows:

As this Texas senatorial body meets this morning to greet a new and productive day we ask You, all-powerful Father, to send Your spirit of wisdom to guide them, Your spirit of right judgment and courage to insure justice for all, Your spirit of knowledge and reverence to insure equality and fair treatment in all our laws. We ask You to fill them with awe and reverence and the knowledge that You are always with them as they strive to serve their God, country, and state. Amen.

On motion of Senator Truan and by unanimous consent, the reading of the Journal of the proceedings of yesterday was dispensed with and the Journal was approved.

## LEAVE OF ABSENCE

On motion of Senator Truan, Senator West was granted leave of absence for today on account of important business.

## CO-AUTHOR OF SENATE BILL 1952

On motion of Senator Truan and by unanimous consent, Senator Patterson will be shown as Co-author of SB 1952.

## HOUSE CONCURRENT RESOLUTION 244

The President laid before the Senate the following resolution:

WHEREAS, Ramsay H. Gillman's many years of service to the Houston community have earned him high regard among his peers in the automotive industry; and

WHEREAS, The owner, president, and chief executive officer of the Gillman Companies, Mr. Gillman got his first taste of the automobile business when he went to work in the parts department of his father's Pontiac dealership, and in 1967 he became an authorized dealer after attending the General Motors Dealer Management Institute; and

WHEREAS, Mr. Gillman is a member of the board of directors of the National Automobile Dealers Association (NADA) and was recently named president of that organization for 1997; he is also a member of the boards of trustees of the Dealers Election Action Committee and the NADA Charitable Foundation; and

WHEREAS, In 1996, this noteworthy individual was presented with the American International Automobile Dealers Association's All-Star Dealer Award in recognition of his outstanding charitable and philanthropic efforts in the Houston area; and

WHEREAS, Ramsay H. Gillman has demonstrated outstanding leadership in his community and as a member of the automotive industry, and the members of this legislature are proud to recognize him for his dedication to excellence; now, therefore, be it

RESOLVED, That the 75th Legislature of the State of Texas hereby commend Ramsay H. Gillman for his many achievements in the automotive industry and for his commitment to serving his fellow Houstonians and extend to him sincere best wishes for continued success and happiness in the years to come; and, be it further

RESOLVED, That an official copy of this resolution be prepared for Mr. Gillman as an expression of high regard by the Texas House of Representatives and Senate.

The resolution was read.

On motion of Senator Brown and by unanimous consent, the resolution was considered immediately and was adopted by a viva voce vote.

#### **GUESTS PRESENTED**

Senator Brown was recognized and introduced to the Senate Ramsay H. Gillman, his wife Stevie, his daughter Stacey, and his sons Jason and Christopher, accompanied by Representative Al Edwards.

The Senate welcomed its guests.

**(Senator Truan in Chair)**

#### **MESSAGE FROM THE HOUSE**

HOUSE CHAMBER

Austin, Texas

Friday, May 16, 1997

The Honorable President of the Senate  
Senate Chamber  
Austin, Texas

Mr. President:

I am directed by the House to inform the Senate that the House has taken the following action:

**THE HOUSE HAS PASSED THE FOLLOWING MEASURES:**

**HB 772**, Relating to the apportionment of the state into congressional districts.

**HB 951**, Relating to the Texas open records law.

**HB 1055**, Relating to denial of a driver's license to a juvenile for failure to appear in court or pay a fine in connection with a misdemeanor.

**HB 1175**, Relating to the method of selection of certain justices and judges.

**HB 1507**, Relating to limiting the liability of certain persons involved in an issuance of securities by a small business.

**HB 1756**, Relating to the liability of Texas Youth Commission volunteers.

**HB 2254**, Relating to reapportionment of certain state representative districts.

**HB 2273**, Relating to certain duties of court clerks.

**HB 2328**, Relating to an exception to the open meetings law for certain deliberations of the board of a hospital district.

**HB 2383**, Relating to the qualification of a nonprofit charitable or religious organization, school, or youth association for an exemption from ad valorem taxation.

**HB 2396**, Relating to the prevention of horse theft.

**HB 2435**, Relating to the offense of money laundering.

**HB 2516**, Relating to the prosecution and punishment of the offense of disorderly conduct.

**HB 2520**, Relating to the conservatorship of state agencies and public junior colleges as a result of fiscal mismanagement.

**HB 2650**, Relating to the application of certain statutes of limitation and statutes relating to the revival or survival of a cause of action to hospital districts.

**HB 2948**, Relating to the creation and re-creation of funds and accounts in the state treasury, the dedication and rededication of revenue, and the exemption of unappropriated money from use for general governmental purposes.

**HB 2981**, Relating to notice to a payee of a change in the payor of oil or gas proceeds.

**HB 3244**, Relating to the efficient use of services and facilities for adult offenders determined to have alcohol or drug abuse problems.

**HB 3373**, Relating to the unlawful interception, use, or disclosure of certain wire, oral, or electronic communications.

**HB 3412**, Relating to the regulation of corporate sureties that write bail bonds.

**SB 96**, Relating to the regulation of political contributions and political expenditures in connection with certain judicial candidates and officeholders; providing a penalty.

**SB 663**, Relating to the authority of a judge to place a defendant convicted of a state jail felony on community supervision, to the supervision of those defendants, and to the facilities in which those defendants may be confined. (Committee Substitute/Amended)

**SB 770**, Relating to the funding of certain peer assistance programs.

**SB 993**, Relating to the election of the office of precinct chair of a political party.

**SB 1661**, Relating to the recovery of certain indirect costs by the Texas Department of Transportation.

THE HOUSE HAS CONCURRED IN SENATE AMENDMENTS TO THE FOLLOWING MEASURES:

**HB 1206** (Viva-voce vote)

**HB 1524** (Viva-voce vote)

**HB 1602** (Viva-voce vote)

THE HOUSE HAS REFUSED TO CONCUR IN SENATE AMENDMENTS TO THE FOLLOWING MEASURES AND REQUESTS THE APPOINTMENT OF A CONFERENCE COMMITTEE TO ADJUST THE DIFFERENCES BETWEEN THE TWO HOUSES:

**HB 1410**

House Conferees: Hill - Chair/Bailey/Ehrhardt/Seaman/Yarbrough

**HB 1880**

House Conferees: Thompson - Chair/Crabb/Hartnett/Luna, Vilma/Solis

**HB 2964**

House Conferees: Sadler - Chair/Finnell/Hartnett/Hill/Uher

Respectfully,

/s/Sharon Carter, Chief Clerk  
House of Representatives

#### **INTRODUCTION OF BILLS AND RESOLUTIONS POSTPONED**

Senator Brown was recognized and announced that the introduction of bills and resolutions on first reading would be postponed until later in today's session.

#### **CAPITOL PHYSICIAN**

Senator Ogden was recognized and presented Dr. Haywood J. Robinson of Bryan as the "Doctor for the Day."

The Senate welcomed Dr. Robinson and thanked him for his participation in the "Capitol Physician" program sponsored by the Texas Academy of Family Physicians.

**(President in Chair)**

**HOUSE CONCURRENT RESOLUTION 257**

The President laid before the Senate the following resolution:

WHEREAS, **HB 3490** has been adopted by the house of representatives and the senate; and

WHEREAS, The bill contains a technical error that should be corrected; now, therefore, be it

RESOLVED, That the enrolling clerk of the house of representatives be hereby instructed to correct **HB 3490** by striking SECTION 3 of the bill, as added by Senate Committee Amendment No. 1, and substituting the following:

SECTION 3. Section 93.042, Natural Resources Code, is amended to read as follows:

Sec. 93.042. PREVENTION OF POLLUTION. This chapter does not limit the commission's authority under this title to prevent pollution, plug wells, or control or clean up oil and gas wastes or other substances or material. The commission, while a well is in the TERRA program, shall assume all well plugging duties for the well and, with the exception of the compliance requirements of a valid TERRA license holder, all pollution prevention and control responsibilities. The commission shall conduct annual inspections and appropriate tests to ensure the continuing integrity of the wellbore. The commission shall keep and retain the necessary records to prove compliance with this requirement.

BIVINS

The resolution was read.

On motion of Senator Bivins and by unanimous consent, the resolution was considered immediately and was adopted by a viva voce vote.

(Senator Truan in Chair)

**SENATE BILL 1403 WITH HOUSE AMENDMENT**

Senator Moncrief called **SB 1403** from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.

**Amendment No. 1**

Amend **SB 1403** as follows:

(1) On page 2, line 8, add new SECTION 3 to read as follows:

SECTION 3. Section 521.422, Transportation Code, is amended to read as follows:

Sec. 521.422. PERSONAL IDENTIFICATION CERTIFICATE FEE.

(a) The fee for a personal identification certificate is:

(1) \$10 for a person under 65 years of age; and

(2) \$5 for a person 65 years of age or older.

(b) The department shall collect an additional fee of \$1 for the issuance or renewal of a personal identification card to fund the Blindness Education,

Screening, and Treatment Program established under Section 91.027, Human Resources Code, if the person applying for or renewing a personal identification card opts to pay the additional fee.

Renumber subsequent SECTIONS accordingly.

The amendment was read.

On motion of Senator Moncrief, the Senate concurred in the House amendment to **SB 1403** by a viva voce vote.

#### **SENATE BILL 500 WITH HOUSE AMENDMENT**

Senator Zaffirini called **SB 500** from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.

#### **Amendment**

Amend **SB 500** by substituting in lieu thereof the following:

#### **A BILL TO BE ENTITLED AN ACT**

relating to certain voter registration processes and procedures.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:**

**SECTION 1.** Section 13.002(a), Election Code, is amended to read as follows:

(a) A person desiring to register to vote must submit an application to the registrar of the county in which the person resides. An application must be submitted by personal delivery or by mail.

**SECTION 2.** Section 13.004, Election Code, is amended to read as follows:

**Sec. 13.004. RECORDING OF TELEPHONE NUMBER OR SOCIAL SECURITY NUMBER BY REGISTRAR [PROHIBITED].** (a) The registrar may not transcribe, copy, or otherwise record a telephone number furnished on a registration application.

(b) The registrar may transcribe, copy, or otherwise record a social security number furnished on a registration application only in maintaining the accuracy of the registration records.

**SECTION 3.** Section 13.122(a), Election Code, is amended to read as follows:

(a) In addition to the other statements and spaces for entering information that appear on an officially prescribed registration application form, each official form must include:

(1) the statement: "I understand that giving false information to procure a voter registration is perjury and a crime under state and federal law.";

(2) a space for the applicant's registration number;

(3) a space for the applicant's Texas driver's license number or number of a personal identification card issued by the Department of Public Safety;

- (4) a space for the applicant's telephone number;
- (5) a space for the applicant's social security number;
- (6) a space for the applicant's sex;
- (7) a statement indicating that the furnishing of the applicant's driver's license number, personal identification card number, telephone number, social security number, and sex is optional;
- (8) a space or box for indicating whether the applicant or voter is submitting new registration information or a change in current registration information;
- (9) a statement instructing a voter who is using the form to make a change in current registration information to enter the voter's name and the changed information in the appropriate spaces on the form;
- (10) [(8)] a statement that if the applicant declines to register to vote, that fact will remain confidential and will be used only for voter registration purposes;
- (11) [(9)] a statement that if the applicant does register to vote, information regarding the agency or office to which the application is submitted will remain confidential and will be used only for voter registration purposes; and
- (12) [(10)] any other voter registration information required by federal law or considered appropriate and required by the secretary of state.

SECTION 4. Section 13.143(e), Election Code, is amended to read as follows:

(e) If the 30th day before the date of an election is a Saturday, Sunday, or legal state or national holiday, an application [~~submitted by mail~~] is considered to be timely if it is submitted to the registrar on or before [the date indicated by the post office cancellation mark is] the next regular business day.

SECTION 5. Section 15.021(b), Election Code, is amended to read as follows:

(b) The voter shall use the registration certificate or a registration application form as the notice, indicating the correct information in the appropriate space on the certificate or application form unless the voter does not have possession of the certificate or an application form at the time of giving the notice.

SECTION 6. Section 16.031(a), Election Code, is amended to read as follows:

(a) The registrar shall cancel a voter's registration immediately on receipt of:

- (1) notice under Section 13.072(b) or 15.021 or a response under Section 15.053 that the voter's residence is outside the county;
- (2) an abstract of the voter's death certificate under Section 16.001(a) or an abstract of an application indicating that the voter is deceased under Section 16.001(b);
- (3) an abstract of a final judgment of the voter's mental incompetence, conviction of a felony, or disqualification under Section 16.002, 16.003, or 16.004;

(4) notice under Section 112.012 that the voter has applied for a limited ballot in another county; ~~[or]~~

(5) notice from a voter registration official in another state that the voter has registered to vote outside this state; ~~or~~

(6) notice from the secretary of state that the voter has registered to vote in another county, as determined by the voter's driver's license number or personal identification card number issued by the Department of Public Safety or social security number.

SECTION 7. Section 19.001(a), Election Code, is amended to read as follows:

(a) Before May 15 of each year, the registrar shall prepare and submit to the comptroller of public accounts a statement containing:

(1) the total number of initial registrations for the previous voting year; ~~[and]~~

(2) the total number of registrations canceled under Sections 16.031(a)(1) and 16.033 for the previous voting year; ~~and~~

(3) the total number of registrations for which information was updated for the previous voting year.

SECTION 8. Section 19.002(a), Election Code, is amended to read as follows:

(a) Each registrar is entitled to receive the sum of the following amounts:

(1) 25 ~~[40]~~ cents multiplied by the number of initial registrations certified under Section 19.001(a)(1);

(2) 40 cents multiplied by the number of canceled registrations certified under Section 19.001(a)(2); ~~[and]~~

(3) 40 cents multiplied by the number of updated registrations under Section 19.001(a)(3); and

(4) in each even-numbered year, 40 cents multiplied by the difference between the number of registered voters and the number of initial registrations certified for the two previous voting years.

SECTION 9. Section 20.063, Election Code, is amended by adding Subsection (d) to read as follows:

(d) If a completed voter registration application submitted to a department employee does not include the applicant's correct driver's license number or personal identification card number, a department employee shall enter the appropriate information on the application. If a completed application does not include the applicant's correct residence address or mailing address, a department employee shall obtain the appropriate information from the applicant and enter the information on the application.

SECTION 10. This Act takes effect September 1, 1997.

SECTION 11. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be



read on three several days in each house be suspended, and this rule is hereby suspended.

The amendment was read.

Senator Zaffirini moved to concur in the House amendment to **SB 500**.

The motion prevailed by the following vote: Yeas 25, Nays 1.

Nays: Gallegos.

Absent: Barrientos, Duncan, Fraser, Harris.

Absent-excused: West.

#### **SENATE BILL 925 WITH HOUSE AMENDMENTS**

Senator Ogden called **SB 925** from the President's table for consideration of the House amendments to the bill.

The Presiding Officer laid the bill and the House amendments before the Senate.

#### **Floor Amendment No. 1**

Amend **SB 925** as follows:

1. On page 6, lines 3 through 9, strike subsection (b) and substitute a new subsection (b) to read as follows:

"(b) The rebate program provided in Section 113.2435 shall be funded by 50 percent of the total delivery fees collected under Section 113.244. Administrative costs for the Alternative Fuels Research and Education Division program may not exceed 25 percent of the total delivery fees collected. The remainder of the total delivery fees collected may be expended at the discretion of the commission."

2. Amend SECTION 7, Sec. 113.246, Natural Resources Code, by adding a new subsection (b) to read as follows, and redesignating the subsections following the new (b) with their appropriate sequential designation:

"(b) The rebate program provided in Section 113.2435 shall be funded by 50 percent of the total delivery fees collected under Section 113.244. Administrative costs for the Alternative Fuels Research and Education Division program may not exceed 25 percent of the total delivery fees collected. The remainder of the total delivery fees collected may be expended at the discretion of the commission."

#### **Amendment No. 2**

Amend **SB 925** as follows:

In SECTION 3, add the following subsection (6):

(6) that the name or seal of the commission shall not be used on any advertising that promotes the propane water heater rebate program.

#### **Amendment No. 3**

Amend **SB 925** as follows:

In SECTION 7, add the following subsection (e):

(e) None of the funds payable or collected under or by the authority of the Propane Education and Research Act of 1996 (Pub. L. No. 104-284), may be spent on the promotion or marketing of propane for use in on-the-road vehicles.

The amendments were read.

On motion of Senator Ogden, the Senate concurred in the House amendments to **SB 925** by a viva voce vote.

#### **SENATE BILL 1380 WITH HOUSE AMENDMENTS**

Senator Ellis called **SB 1380** from the President's table for consideration of the House amendments to the bill.

The Presiding Officer laid the bill and the House amendments before the Senate.

#### **Amendment**

Amend **SB 1380** by substituting in lieu thereof the following:

#### **A BILL TO BE ENTITLED AN ACT**

relating to the creation of an electronic state business daily to give notice before a state agency makes a procurement with a value that exceeds \$25,000.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter B, Chapter 2155, Government Code, is amended by adding Section 2155.074 to read as follows:

Sec. 2155.074. STATE BUSINESS DAILY: NOTICE REGARDING PROCUREMENTS EXCEEDING \$25,000. (a) This section applies to each state agency making a procurement that will exceed \$25,000 in value, without regard to the source of funds the agency will use for the procurement, including a procurement that:

(1) is otherwise exempt from the commission's purchasing authority or the application of this subtitle;

(2) is made under delegated purchasing authority;

(3) is related to a construction project; or

(4) is a procurement of professional or consulting services.

(b) In this section, "department" means the Texas Department of Commerce.

(c) The department each business day shall produce and post a business daily in an electronic format. The department shall post in the business daily information as prescribed by this section about each state agency procurement that will exceed \$25,000 in value. The department shall also post in the business daily other information relating to the business activity of the state that the department considers to be of interest to the public.

(d) The department shall make the business daily available on the Internet through its information service known as the Texas Marketplace or through a suitable successor information service that will make the information available on the Internet. The department and each state agency shall cooperate in making the electronic business daily available.

(e) To accommodate businesses that do not have the technical means to access the business daily, governmental and nongovernmental entities such as public libraries, chambers of commerce, trade associations, small business development centers, economic development departments of local governments, and state agencies may provide public access to the business daily. A governmental entity may recover the direct cost of providing the public access only by charging a fee for downloading procurement notices and bid or proposal solicitation packages posted in the business daily. A nongovernmental entity may use information posted in the business daily in providing a service that is more than only the downloading of information from the business daily, including a service by which appropriate bidders or offerors are matched with information that is relevant to those bidders or offerors, and may charge a lawful fee that the entity considers appropriate for the service.

(f) The department and other state agencies may not charge a fee designed to recover the cost of preparing and gathering the information that is published in the business daily. These costs are considered part of a procuring agency's responsibility to publicly inform potential bidders or offerors of its procurement opportunities.

(g) A state agency shall post in the business daily either the entire bid or proposal solicitation package or a notice that includes at a minimum the following information for each procurement that the state agency will make that is estimated to exceed \$25,000 in value:

(1) a brief description of the goods or services to be procured and any applicable state product or service codes for the goods and services;

(2) the last date on which bids, proposals, or other applicable expressions of interest will be accepted;

(3) the estimated quantity of goods or services to be procured;

(4) if applicable, the previous price paid by the state agency for the same or similar goods or services;

(5) the estimated date on which the goods or services to be procured will be needed; and

(6) the name, business mailing address, and business telephone number of the state agency employee a person may contact to obtain all necessary information related to making a bid or proposal or other applicable expression of interest for the procurement contract.

(h) The state agency shall continue to either:

(1) post notice of the procurement in accordance with Subsection (g) until the latest of 21 calendar days after the date the notice is first posted; the date the state agency will no longer accept bids, proposals, or other applicable expressions of interest for the procurement; or the date the state agency decides not to make the procurement; or

(2) post the entire bid or proposal solicitation package in accordance with Subsection (g) until the latest of 15 calendar days after the date the bid or proposal solicitation package is first posted; the date the state agency will no longer accept bids, proposals, or other applicable expressions of interest for the procurement; or the date the state agency decides not to make the procurement.

(i) A state agency may not award the procurement contract and shall continue to accept bids or proposals or other applicable expressions of interest for the procurement contract for at least 21 calendar days after the date the state agency first posted notice of the procurement in accordance with Subsection (g) or 15 calendar days after the date the state agency first posted the entire bid or proposal solicitation package in accordance with Subsection (g), as applicable. The minimum time for posting required by this subsection and Subsection (h) does not apply in an emergency requiring the state agency to make the procurement more quickly to prevent a hazard to life, health, safety, welfare, or property or to avoid undue additional cost to the state.

(j) A contract or procurement award made by a state agency that violates the applicable minimum time for posting required by Subsections (h) and (i) is void.

(k) Each state agency that will award a procurement contract estimated to exceed \$25,000 in value shall send to the department:

(1) the information the department requires for posting in the state business daily under this section; and

(2) a notice when the procurement contract has been awarded or when the state agency has decided to not make the procurement.

(l) The department may adopt rules, prescribe forms, and require information to administer this section. The department shall send any proposed rules to the governor, Legislative Budget Board, comptroller, state auditor, and commission for review and comment. The department's rules shall require that each state agency, to the extent feasible, shall directly and electronically post its own notices or solicitation packages under Subsections (g) and (h).

(m) The requirements of this section are in addition to the requirements of other law relating to the solicitation of bids, proposals, or expressions of interest for a procurement by a state agency. This section does not affect whether a state agency is required to award a procurement contract through competitive bidding, competitive sealed proposals, or another method.

SECTION 2. The minimum posting time requirement of Sections 2155.074(h) and (i), Government Code, as added by this Act, and the provisions of Section 2155.074(j), Government Code, as added by this Act, apply only to a procurement contract awarded on or after July 1, 1998.

SECTION 3. This Act takes effect June 1, 1998, except that the Texas Department of Commerce may adopt rules, procedures, and forms and make agreements necessary to administer this Act beginning September 1, 1997.

SECTION 4. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

#### **Floor Amendment No. 1**

Amend CSSB 1380 as follows:

(1) On page 1, line 9, strike "This" and substitute "Except as provided by Subsection (n), this".

(2) On page 5, insert the following between lines 22 and 23:

(n) This section does not apply to a state agency to which Section 51.933, Education Code, as added by Chapter 736, Acts of the 74th Legislature, Regular Session, 1995, applies or to which Section 73.115, Education Code, applies.

**Floor Amendment No. 2**

Amend CSSB 1380 as follows:

- (1) On page 4, line 8, strike "15" and substitute "14".
- (2) On page 4, line 18, strike "15" and substitute "14".

The amendments were read.

On motion of Senator Ellis, the Senate concurred in the House amendments to SB 1380 by a viva voce vote.

**SENATE BILL 1506 WITH HOUSE AMENDMENT**

Senator Gallegos called SB 1506 from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.

**Amendment No. 1**

Amend SB 1506 as follows:

- (1) On page 1, line 5, strike "502.292" and substitute "502.293".
- (2) On page 1, line 6, strike "502.292" and substitute "502.293".

The amendment was read.

On motion of Senator Gallegos, the Senate concurred in the House amendment to SB 1506 by a viva voce vote.

**GUESTS PRESENTED**

Senator Bivins, on behalf of Senator Ratliff, was recognized and introduced to the Senate the Mount Vernon Girls' Softball Team and coach.

The Senate welcomed its guests.

(Senator Armbrister in Chair)

**SENATE BILL 1656 WITH HOUSE AMENDMENT**

Senator Truan called SB 1656 from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.

**Floor Amendment No. 1**

Amend SB 1656 as follows:

- (1) In SECTION 5 of the bill, in Subsection (a), between "Act" and "if", insert "only".

(2) In SECTION 5 of the bill, in Subsection (a), between "if" and "the board", insert ":

(1) an election has not been held previously under this section; and  
(2)".

(3) In SECTION 5 of the bill, in Subsection (b), strike "(a)" and substitute "(a)(2)".

The amendment was read.

Senator Truan moved to concur in the House amendment to **SB 1656**.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: West.

#### **SENATE CONCURRENT RESOLUTION 35 WITH HOUSE AMENDMENT**

Senator Truan called **SCR 35** from the President's table for consideration of the House amendment to the resolution.

The Presiding Officer laid the resolution and the House amendment before the Senate.

#### **Committee Amendment No. 1**

Amend **SCR 35** on page 2, line 7 by inserting the words, "the General Land Office," before the words "the Texas Water Development Board".

The amendment was read.

On motion of Senator Truan, the Senate concurred in the House amendment to **SCR 35** by a viva voce vote.

#### **SENATE BILL 1952 ON THIRD READING**

Senator Truan moved that the regular order of business be suspended and that **SB 1952** be placed on its third reading and final passage:

**SB 1952**, Relating to certain courts with probate jurisdiction.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: West.

**SB 1952** was read third time.

Senator Wentworth offered the following amendment to the bill:

#### **Floor Amendment No. 1**

Amend **SB 1952** as follows:

(1) In SECTION 1 of the bill, in added Subsection (g) of Section 5, Texas Probate Code (senate committee report, page 1, line 15), at the end of the subsection after the period, insert "This subsection expires August 31, 1999."

(2) Insert the following appropriately numbered SECTION and renumber the remaining SECTIONS of the bill accordingly:

SECTION \_\_. (a) An interim committee is created to study the statutory probate system and to determine the appropriate jurisdiction of probate courts in this state.

(b) The committee consists of six members, of whom:

(1) three shall be appointed by the lieutenant governor from the members of the Senate Committee on Jurisprudence; and

(2) three shall be appointed by the speaker of the house of representatives from the members of the House Committee on Judicial Affairs.

(c) The presiding officers appointing the members of the committee shall each appoint a presiding officer from among the members appointed to the committee.

(d) The committee shall convene at the call of the two presiding officers.

(e) The committee shall study the statutory probate system of this state and the jurisdiction of the various courts with probate jurisdiction and shall make recommendations concerning the appropriate jurisdiction of those courts.

(f) Not later than February 1, 1999, the committee shall report the committee's findings and recommendations to the lieutenant governor, the speaker of the house of representatives, and the members of the 76th Legislature.

(g) Not later than the 15th day after the effective date of this Act, the lieutenant governor and the speaker of the house of representatives shall appoint the members of the interim committee created under this section.

The amendment was read and was adopted by unanimous consent.

**SB 1952** as amended was finally passed by the following vote:  
Yeas 28, Nays 2.

Yeas: Armbrister, Barrientos, Bivins, Brown, Cain, Carona, Duncan, Ellis, Fraser, Gallegos, Galloway, Harris, Haywood, Lindsay, Lucio, Madla, Moncrief, Nelson, Nixon, Ogden, Patterson, Ratliff, Shapiro, Shapleigh, Sibley, Truan, Wentworth, Whitmire.

Nays: Luna, Zaffirini.

Absent-excused: West.

(Senator Sibley in Chair)

**COMMITTEE SUBSTITUTE  
HOUSE BILL 1200 ON SECOND READING**

Senator Brown asked unanimous consent to suspend the regular order of business to take up for consideration at this time:

**CSHB 1200**, Relating to the period of validity of and fees for a driver's license or personal identification certificate.

There was objection.

Senator Brown then moved to suspend the regular order of business and take up **CSHB 1200** for consideration at this time.

The motion prevailed by the following vote: Yeas 27, Nays 3.

Yeas: Armbrister, Bivins, Brown, Cain, Carona, Duncan, Ellis, Fraser, Gallegos, Galloway, Harris, Haywood, Lindsay, Lucio, Luna, Madla,

Moncrief, Nelson, Nixon, Ogden, Patterson, Ratliff, Shapiro, Sibley, Wentworth, Whitmire, Zaffirini.

Nays: Barrientos, Shapleigh, Truan.

Absent-excused: West.

**CSHB 1200** was read second time.

Senator Brown offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend **CSHB 1200** as follows:

(1) Immediately following the period at the end of the second sentence of Section 502.271(c), Transportation Code, as added by SECTION 1 of the bill (committee printing, page 1, line 39) insert: "The department shall update the holder's picture at each renewal."

(2) Strike SECTION 11 of the bill (committee printing, page 3, line 39) and substitute the following:

SECTION 11. This Act takes effect December 1, 1997.

The amendment was read and was adopted by a viva voce vote.

Senator Bivins offered the following amendment to the bill:

**Floor Amendment No. 2**

Amend **CSHB 1200** by adding the following SECTIONS.

SECTION \_\_\_\_ Section 521.001(a), Transportation Code, is amended by amending Subdivision (3) and adding Subdivision (9) to read as follows:

(3) "Driver's license" means an authorization issued by the department for the operation of a motor vehicle. The term includes:

(A) a temporary license, ~~[or] instruction permit, or intermediate license~~; and

(B) an occupational license.

(9) "Traffic offense" means violation of a statute or ordinance that regulates a driver's conduct or condition while operating a motor vehicle.

SECTION \_\_\_\_ Section 521.203, Transportation Code, is amended to read as follows:

Sec. 521.203. RESTRICTIONS ON CLASS A AND B LICENSES. The department may not issue a Class A or Class B driver's license to a person who:

(1) is under 17 years of age;

(2) is under 18 years of age unless the person:

(A) has held an intermediate license or hardship license for at least six months preceding the date of the application;

(B) has completed a driver training course approved by the Texas [Central] Education Agency; and

(C) is not ineligible under Section 521.2041(b); or

(3) has not provided the department with an affidavit, on a form prescribed by the department, that states that no vehicle that the person will drive that requires a Class A or Class B license is a commercial motor vehicle as defined by Section 522.003.



SECTION \_\_\_\_ . Subchapter J, Chapter 521, Transportation Code, is amended by adding Section 521.2041 to read as follows:

Sec. 521.2041. ADDITIONAL RESTRICTIONS ON MINOR. (a) The department may issue a Class C driver's license to an applicant under 18 years of age only if the applicant has held an intermediate license or hardship license for at least six months preceding the date of the application.

(b) The department may not issue a Class A, B, or C driver's license or an intermediate license to an applicant under 18 years of age if the applicant was alleged to have committed, during the six-month period preceding the date of the application for a Class A, B, or C driver's license or during the one-year period preceding the date of the application for an intermediate license, a traffic offense and the allegation:

(1) resulted in a final:

(A) adjudication under juvenile proceedings; or

(B) conviction; or

(2) has not been finally disposed of before the date of the application.

(c) A person under 18 years of age may not operate a motor vehicle unless the person and each passenger in the motor vehicle is secured by a safety belt or child passenger safety seat system.

SECTION \_\_\_\_ . Section 521.222(c), Transportation Code, is amended to read as follows:

(c) An instruction permit entitles the holder to operate a type of motor vehicle on a highway while:

(1) the permit is in the holder's possession; and

(2) the holder is accompanied by a person occupying the seat by the operator who:

(A) holds a license that qualifies the operator to operate that type of vehicle;

(B) is 21 ~~18~~ years of age or older; ~~and~~

(C) has at least one year of driving experience; and

(D) is the only person occupying the seat by the operator.

SECTION \_\_\_\_ . Subchapter K, Chapter 521, Transportation Code, is amended by adding Section 521.2221 to read as follows:

Sec. 521.2221. INTERMEDIATE LICENSE. (a) The department may issue an intermediate license to a person who:

(1) is 16 years of age but less than 18 years of age;

(2) meets the requirements imposed by Sections 521.204(2), (3), and (4) on an applicant for a Class C driver's license; and

(3) is not ineligible under Section 521.2041(b).

(b) A holder of an intermediate license may not operate a motor vehicle after 9 p.m. and before 5 a.m. unless:

(1) the holder is accompanied in the same manner required by Section 521.222(c)(2) for operation of a motor vehicle by the holder of an instruction permit; or

(2) the operation is necessary for the holder to travel between the holder's home and the holder's place of employment.

**SECTION \_.** This Act does not affect the validity or effect of a driver's license, including an instruction permit, issued before the effective date of this Act. That license is governed by the law in effect when the license was issued, and that law is continued in effect for that purpose.

The amendment was read.

#### **POINT OF ORDER**

Senator Brown raised a point of order that Floor Amendment No. 2 was not germane to the bill.

#### **POINT OF ORDER RULING**

The Presiding Officer, Senator Sibley in Chair, ruled that the point of order was well-taken and sustained.

**CSHB 1200** as amended was passed to third reading by a viva voce vote.

#### **RECORD OF VOTES**

Senators Barrientos, Shapleigh, and Truan asked to be recorded as voting "Nay" on the passage of the bill to third reading.

#### **COMMITTEE SUBSTITUTE HOUSE BILL 1200 ON THIRD READING**

Senator Brown moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 1200** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 27, Nays 3.

Yeas: Armbrister, Bivins, Brown, Cain, Carona, Duncan, Ellis, Fraser, Gallegos, Galloway, Harris, Haywood, Lindsay, Lucio, Luna, Madla, Moncrief, Nelson, Nixon, Ogden, Patterson, Ratliff, Shapiro, Sibley, Wentworth, Whitmire, Zaffirini.

Nays: Barrientos, Shapleigh, Truan.

Absent-excused: West.

**CSHB 1200** was read third time and was passed by a viva voce vote.

#### **RECORD OF VOTES**

Senators Barrientos, Shapleigh, and Truan asked to be recorded as voting "Nay" on the final passage of the bill.

#### **SENATE CONCURRENT RESOLUTION 3 ON SECOND READING**

On motion of Senator Patterson and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading:

**SCR 3**, Granting Dr. Helen Li permission to sue the state and The University of Texas Medical School at Houston.

The resolution was read second time.

On motion of Senator Patterson and by unanimous consent, further consideration of **SCR 3** was postponed to a time certain of 10:30 a.m. today.

Question—Shall **SCR 3** be adopted?

#### **SENATE BILL 1956 ON SECOND READING**

On motion of Senator Carona and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

**SB 1956**, Relating to the municipal courts of record in Garland.

The bill was read second time and was passed to engrossment by a viva voce vote.

#### **SENATE BILL 1956 ON THIRD READING**

Senator Carona moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SB 1956** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: West.

**SB 1956** was read third time and was passed by a viva voce vote.

#### **HOUSE BILL 540 ON SECOND READING**

On motion of Senator Shapleigh and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**HB 540**, Relating to educational programs offered to colonia residents by the Texas Department of Housing and Community Affairs.

The bill was read second time and was passed to third reading by a viva voce vote.

#### **HOUSE BILL 540 ON THIRD READING**

Senator Shapleigh moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 540** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: West.

**HB 540** was read third time and was passed by a viva voce vote.

#### **HOUSE BILL 2918 ON SECOND READING**

On motion of Senator Whitmire and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**HB 2918**, Relating to the extension of a period of supervision under community supervision for a defendant charged with or convicted of

certain sexual or sexually assaultive offenses, to the publication of notice under the sex offender registration program, and to the classification of inmates in the custody of the Texas Department of Criminal Justice on the basis of need for treatment.

The bill was read second time.

Senator Whitmire offered the following committee amendment to the bill:

**Committee Amendment No. 1**

Amend **HB 2918** by adding the following appropriately numbered SECTION and renumbering existing SECTIONS accordingly:

SECTION \_\_\_\_ Section 24, Article 42.18, Code of Criminal Procedure, is amended to read as follows:

Sec. 24. INTENSIVE SUPERVISION; SUPER-INTENSIVE SUPERVISION. (a) The department shall establish a program to provide intensive supervision to inmates released under the provisions of Subchapter B, Chapter 499, Government Code, and other inmates determined by parole panels or the department to require intensive supervision. The Texas Board of Criminal Justice shall adopt rules that establish standards for determining which inmates require intensive supervision. The program must provide the [highest] level of supervision provided by the department that is higher than any level of supervision other than the level of supervision described by Subsection (b).

(b) The department shall establish a program to provide super-intensive supervision to inmates released on parole or mandatory supervision and determined by parole panels to require super-intensive supervision. The program must provide the highest level of supervision provided by the department.

The committee amendment was read and was adopted by a viva voce vote.

Senator Whitmire offered the following committee amendment to the bill:

**Committee Amendment No. 2**

Amend **HB 2918** by adding the following appropriately numbered SECTION and renumbering existing SECTIONS accordingly:

SECTION \_\_\_\_ Section 2, Article 42.12, Code of Criminal Procedure, is amended by adding Subdivision (4) to read as follows:

(4) "Electronic monitoring" includes voice tracking systems, position tracking systems, position location systems, biometric tracking systems, and any other electronic or telecommunications system that may be used to assist in the supervision of individuals under this article.

The committee amendment was read and was adopted by a viva voce vote.

Senator Whitmire offered the following committee amendment to the bill:

**Committee Amendment No. 3**

Amend **HB 2918** by adding an appropriately numbered SECTION to read as follows and by renumbering existing SECTIONS accordingly:

SECTION \_\_. The legislature finds that the release of dangerous inmates from the Texas Department of Criminal Justice sentenced under prior Texas law creates the potential for a continuing threat to public safety.

The legislature finds that current Texas law eliminates the chance that dangerous inmates will be automatically released from Texas prisons. However, many inmates sentenced under prior Texas law are eligible for various forms of early release. Because the United States Constitution precludes increasing the sentences of dangerous inmates after their convictions, and because prior Texas law allows the release of these inmates before the completion of their sentences, there is a need to better supervise these inmates on release.

The legislature finds that there is a compelling state interest in placing inmates released on parole and mandatory supervision under the kind of supervision that will best protect public safety. The level of supervision of inmates released from the Texas Department of Criminal Justice should be appropriate based on their likelihood of committing new offenses, the nature of their original offenses, their performance in prison programs designed to rehabilitate inmates, and any other factor deemed by a parole panel to be relevant to their status.

The legislature finds that there is a need for a program of intensive supervision of certain inmates whose histories indicate a propensity for violence. Regardless of whether an inmate's instant offense is a violent offense, there is a need for careful evaluation and review of each inmate released from prison to determine the need for supervision of the inmate.

The legislature intends by this measure, and by related appropriations, to enhance existing parole programs and to provide appropriate supervision, including electronic monitoring, under existing and future law for dangerous inmates released from the Texas Department of Criminal Justice. It is the legislature's intention that the scope of allowable supervision under this measure and related statutes be construed in the broadest possible manner consistent with constitutional restraints.

The committee amendment was read and was adopted by a viva voce vote.

Senator Whitmire offered the following committee amendment to the bill:

**Committee Amendment No. 4**

Amend **HB 2918** as follows:

Amend Sec. 3, page 2 line 18 of the bill by inserting the words "or more than 20 years", after the word "years" and before the period.

The committee amendment was read and was adopted by a viva voce vote.

**HB 2918** as amended was passed to third reading by a viva voce vote.

**HOUSE BILL 2918 ON THIRD READING**

Senator Whitmire moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2918** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: West.

**HB 2918** was read third time and was passed by a viva voce vote.

**HOUSE BILL 2179 ON SECOND READING**

On motion of Senator Galloway and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**HB 2179**, Relating to competitive bidding in connection with certain contracts made by counties.

The bill was read second time and was passed to third reading by a viva voce vote.

**HOUSE BILL 2179 ON THIRD READING**

Senator Galloway moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2179** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: West.

**HB 2179** was read third time and was passed by a viva voce vote.

**MOTION TO PLACE****HOUSE BILL 1039 ON SECOND READING**

Senator Moncrief moved to suspend the regular order of business to take up for consideration at this time:

**HB 1039**, Relating to court-ordered mental health services.

On motion of Senator Moncrief and by unanimous consent, the motion to suspend the regular order of business was withdrawn.

**BILLS SIGNED**

The Presiding Officer announced the signing of the following enrolled bills in the presence of the Senate after the captions had been read:

**SB 94, SB 199, SB 231, SB 555, SB 657, SB 773, SB 781, SB 881, SB 1227, SB 1277, SB 1313, SB 1600, SB 1601, SB 1621, SB 1639**

**HOUSE BILL 1203 ON SECOND READING**

On motion of Senator Gallegos and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**HB 1203**, Relating to credit in, benefits from, and administration of certain municipal retirement systems for police officers.

The bill was read second time and was passed to third reading by a viva voce vote.

**HOUSE BILL 1203 ON THIRD READING**

Senator Gallegos moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1203** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: West.

**HB 1203** was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

**HOUSE BILL 1345 ON SECOND READING**

On motion of Senator Armbrister and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**HB 1345**, Relating to the issuance of certain permits to move certain heavy equipment over a state highway.

The bill was read second time and was passed to third reading by a viva voce vote.

**HOUSE BILL 1345 ON THIRD READING**

Senator Armbrister moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1345** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: West.

On motion of Senator Armbrister, further consideration of **HB 1345** was postponed.

Question—Shall **HB 1345** be read third time?

**SENATE CONCURRENT RESOLUTION 3  
ON SECOND READING**

The Presiding Officer, Senator Sibley in Chair, laid **SCR 3** before the Senate on its second reading. The resolution was read second time and further consideration was postponed to a time certain of 10:30 a.m. today.

**SCR 3**, Granting Dr. Helen Li permission to sue the state and The University of Texas Medical School at Houston.

Question—Shall **SCR 3** be adopted?

**SCR 3** was adopted by a viva voce vote.

**SENATE BILL 1906 WITH HOUSE AMENDMENT**

Senator Ratliff called **SB 1906** from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.

**Floor Amendment No. 1**

Amend **SB 1906** in SECTION 9 of the bill, amended Section 2305.036(c), Government Code, by striking Subdivision (5) (House committee report, page 8, lines 18-19) and substituting the following:

(5) funding of a weatherization assistance program through the Texas Department of Housing and Community Affairs to benefit individuals of low income.

The amendment was read.

On motion of Senator Ratliff, the Senate concurred in the House amendment to **SB 1906** by a viva voce vote.

**GUESTS PRESENTED**

Senator Lucio was recognized and introduced to the Senate Don R. Badeaux, Los Fresnos City Manager; and John D. Guevara, Director of the Los Fresnos Community Development Corporation.

The Senate welcomed its guests.

**BILLS AND RESOLUTIONS SIGNED**

The President announced the signing of the following enrolled bills and resolutions in the presence of the Senate after the captions had been read:

**HB 1206, HB 1406, HB 1422, HB 1808, HB 1875, HB 1965, HB 1976, HB 2080, HB 2509, HB 2601, HB 2832, HB 3043, HB 3190, HB 3281, HB 3456, HB 3457, HB 3507, HCR 16, HCR 40, HCR 66, HCR 73, HCR 74, HCR 84, HCR 195, HCR 197, HCR 200, HCR 201, HCR 253, HCR 263**

(President in Chair)

**HOUSE BILL 1855 ON SECOND READING**

On motion of Senator Ratliff and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**HB 1855**, Relating to sales tax exemption for items used in manufacturing tangible personal property for ultimate sale.

The bill was read second time.

Senator Ratliff offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend **HB 1855** as follows:

1. On page 1, line 32, strike "and".



2. On page 1, line 35 and 36, strike "and computerized control units" and substitute "computerized control units, compressors, and hydraulic units.".

3. On page 1, line 39, after "sale" and before the period, insert the following:

; and

(5) machinery, equipment, and replacement parts or accessories used or consumed in the actual manufacturing, processing, or fabrication of tangible personal property for ultimate sale if their use or consumption is necessary and essential to a pollution control process".

4. Strike page 1, line 40, through page 1, line 59, and substitute the following:

(c) The exemption does not include:

(1) ~~[machinery, equipment, or replacement parts or their accessories having a useful life when new in excess of six months;~~

(2) intraplant transportation equipment, including intraplant transportation equipment used to move a product or raw material in connection with the manufacturing process and specifically including all piping and conveyor systems, provided that piping that is a component part of a single item of manufacturing equipment or pollution control equipment eligible for the exemption under subsection (a)(2), (a)(4) or (a)(5) remains eligible for the exemption;

(2) maintenance or janitorial supplies or equipment[;] or other machinery, equipment, materials, or supplies that are used incidentally in a manufacturing, processing, or fabrication operation;

(3) hand tools; ~~[or]~~

(4) office equipment or supplies, equipment or supplies used in sales or distribution activities, research or development of new products, or transportation activities, or other tangible personal property not used in an actual manufacturing, processing, or fabrication operation; or

(5) machinery and equipment or supplies used to maintain or store tangible personal property.

5. On page 2, line 5, strike "(c)(2)" and substitute "(c)(1)".

6. On page 2, line 6, strike "(c)(6)" and substitute "(c)(5)".

7. On page 2, line 7, insert the following as new SECTIONS 2 and 3, and renumber the remaining SECTIONS accordingly:

SECTION 2. Section 151.318(n) and (q), Tax Code, are amended to read as follows:

(n) A person engaged in overhauling, retrofitting, or repairing jet turbine aircraft engines and their component parts is entitled to an exemption from the [a refund or a reduction in the amount of] tax imposed by this chapter for the purchase of machinery, equipment, or replacement parts or accessories with a useful life in excess of six months, or supplies, including aluminum oxide, nitric acid, and sodium cyanide, used in electrochemical plating or a similar process that are used or consumed in the overhauling, retrofitting, or repairing. ~~[The amount of the refund or reduced amount of tax due is the same as provided by Subsection (h) for property covered by Subsection (g):]~~

(q) For purposes of Subsection (b), "semiconductor fabrication cleanrooms and equipment" means all tangible personal property, without

regard to whether the property is affixed to or incorporated into realty, used in connection with the manufacturing, processing, or fabrication in a cleanroom environment of a semiconductor product, without regard to whether the property is actually contained in the cleanroom environment. The term includes integrated systems, fixtures, and piping, all property necessary or adapted to reduce contamination or to control airflow, temperature, humidity, chemical purity, or other environmental conditions or manufacturing tolerances, and production equipment and machinery. The term does not include the building or a permanent, nonremovable component of the building, that houses the cleanroom environment. The term includes moveable cleanroom partitions and cleanroom lighting. "Semiconductor fabrication cleanrooms and equipment" are not "interplant transportation equipment" or "used incidentally in a manufacturing, processing, or fabrication operation" as those terms are used in Subsection (c)(1) [(c)(2)].

SECTION 3. Subsections (f)-(m) of Section 151.318, Tax Code, are repealed.

The amendment was read and was adopted by a viva voce vote.

**HB 1855** as amended was passed to third reading by a viva voce vote.

#### **HOUSE BILL 1855 ON THIRD READING**

Senator Ratliff moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1855** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: West.

**HB 1855** was read third time and was passed by a viva voce vote.

#### **HOUSE BILL 2141 ON SECOND READING**

On motion of Senator Wentworth and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**HB 2141**, Relating to the seizure and sale of certain property by certain municipalities.

The bill was read second time and was passed to third reading by a viva voce vote.

#### **HOUSE BILL 2141 ON THIRD READING**

Senator Wentworth moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2141** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: West.

**HB 2141** was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

**HOUSE BILL 546 ON SECOND READING**

On motion of Senator Whitmire and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**HB 546**, Relating to the civil liability of charitable organizations providing neighborhood crime prevention or patrol services.

The bill was read second time and was passed to third reading by a viva voce vote.

**HOUSE BILL 546 ON THIRD READING**

Senator Whitmire moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 546** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: West.

**HB 546** was read third time and was passed by a viva voce vote.

**HOUSE BILL 2914 ON SECOND READING**

On motion of Senator Galloway and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**HB 2914**, Relating to the conveyance by the General Land Office of the state's interest in certain real property.

The bill was read second time.

Senator Galloway offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend **HB 2914** as follows:

On page 2, strike lines 8 through 12 and substitute the following:

"(b) On the date the state cancels the patents issued to the City of Port Arthur, except for the property described by Section 1(e) of this Act, the real property becomes property of the permanent school fund.

(c) The real property referred to in Subsection (a) of this section consists".

The amendment was read and was adopted by a viva voce vote.

**HB 2914** as amended was passed to third reading by a viva voce vote.

**HOUSE BILL 2914 ON THIRD READING**

Senator Galloway moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2914** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: West.

**HB 2914** was read third time and was passed by the following vote:  
Yeas 30, Nays 0. (Same as previous roll call)

(Senator Carona in Chair)

**COMMITTEE SUBSTITUTE  
HOUSE BILL 107 ON SECOND READING**

On motion of Senator Ratliff and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**CSHB 107**, Relating to specialized license plates to support the diagnosis of reading development and comprehension at certain grade levels in public school and to requirements concerning that diagnosis.

The bill was read second time and was passed to third reading by a viva voce vote.

**COMMITTEE SUBSTITUTE  
HOUSE BILL 107 ON THIRD READING**

Senator Ratliff moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 107** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: West.

**CSHB 107** was read third time and was passed by a viva voce vote.

**GUESTS PRESENTED**

Senator Barrientos was recognized and introduced to the Senate a group of third-grade students and their teachers from Kiker Elementary School of Austin.

The Senate welcomed its guests.

**GUESTS PRESENTED**

Senator Ellis was recognized and introduced to the Senate a group of students from La Rochelle Academy of Houston.

The Senate welcomed its guests.

**HOUSE BILL 2064 ON SECOND READING**

On motion of Senator Madla and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**HB 2064**, Relating to the authority of certain counties to impose a county hotel occupancy tax.

The bill was read second time and was passed to third reading by a viva voce vote.

**RECORD OF VOTE**

Senator Ogden asked to be recorded as voting "Nay" on the passage of the bill to third reading.

**HOUSE BILL 2064 ON THIRD READING**

Senator Madla moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2064** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 1.

Nays: Ogden.

Absent-excused: West.

**HB 2064** was read third time and was passed by the following vote: Yeas 29, Nays 1. (Same as previous roll call)

**VOTE RECONSIDERED**

On motion of Senator Galloway and by unanimous consent, the vote by which **CSHB 2914** was finally passed was reconsidered.

**CSHB 2914**, Relating to special license plates benefitting Big Bend National Park.

Question—Shall **CSHB 2914** be finally passed?

(President in Chair)

**HOUSE BILL 2519 ON SECOND READING**

On motion of Senator Madla and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**HB 2519**, Relating to special license plates benefitting Big Bend National Park.

The bill was read second time.

Senator Madla offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend **HB 2519** as follows:

(1) In the introductory language to SECTION 1 of the bill (committee printing, page 1, line 12), strike "502.292" and substitute "502.295".

(2) In the section number of Section 502.292, Transportation Code, as added by SECTION 1 of the bill, strike "502.292" (committee printing, page 1, line 13) and substitute "502.295".

(3) In Section 502.292(d)(2), Transportation Code, as added by SECTION 1 of the bill, between "502.161" and the first comma (committee printing, page 1, line 36), insert "or 502.162".

The amendment was read and was adopted by a viva voce vote.

**HB 2519** as amended was passed to third reading by a viva voce vote.

**HOUSE BILL 2519 ON THIRD READING**

Senator Madla moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2519** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: West.

**HB 2519** was read third time and was passed by a viva voce vote.

**SENATE BILL 1949 ON SECOND READING**

On motion of Senator Carona and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

**SB 1949**, Relating to the powers, duties, administration, financing, and operation of the Falcon's Lair Utility and Reclamation District; granting the authority to issue bonds.

The bill was read second time and was passed to engrossment by a viva voce vote.

**SENATE BILL 1949 ON THIRD READING**

Senator Carona moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SB 1949** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: West.

**SB 1949** was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

**MESSAGE FROM THE HOUSE**

HOUSE CHAMBER

Austin, Texas

Friday, May 16, 1997

The Honorable President of the Senate  
Senate Chamber  
Austin, Texas

Mr. President:

I am directed by the House to inform the Senate that the House has taken the following action:

**THE HOUSE HAS PASSED THE FOLLOWING MEASURES:**

**HCR 230**, Commemorating the 100th anniversary of the dedication of Saint Ann's Catholic Church in Midland.

**HCR 231**, Designating May 1997 as Older Americans Month.

**HCR 232**, Designating May 8, 1997, Clinical Nutrition Day in Texas.

**HCR 235**, Honoring the Texas Association of African American Chambers of Commerce and declaring May 5-9, 1997, as Chamber of Commerce Week in Texas.

**HCR 236**, Honoring Judge Jodie E. Stavinoha.

**HCR 240**, Honoring E. James Bowles for his many years of service with the American Association of Retired Persons.

**HCR 241**, Honoring Leo L. Baker for his service to senior citizens.

**HCR 242**, In memory of Glenn Hopkins.

**HCR 256**, Designating Hearne the Sunflower Capital of Texas.

**HCR 265**, Recognizing the Texas Czech Heritage and Cultural Center.

**HCR 270**, Instructing the enrolling clerk of the house to make corrections in H.B. 1826.

**SCR 79**, In memory of Dr. Marion Zetzman.

**SCR 80**, Recognizing the exceptional accomplishments of the Texas Highway Department and Texas Department of Transportation.

**SCR 82**, Commending the Honorable Cathye Ray.

**SCR 83**, Designating May 8, 1997, Clinical Nutrition Day in Texas.

**SCR 84**, Honoring Judge Jodie E. Stavinoha of Fort Bend County.

**SCR 86**, Commending Commissioner Kenneth H. Ashworth for his outstanding public service.

**SCR 87**, Commending the O. Henry Museum for its Opportunity-For-Youth Writing Clubs for Austin's inner-city youth.

Respectfully,

/s/Sharon Carter, Chief Clerk  
House of Representatives

(Senator Truan in Chair)

**COMMITTEE SUBSTITUTE  
SENATE BILL 946 ON SECOND READING**

On motion of Senator Patterson and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

**CSSB 946**, Relating to a requirement that certain persons obtain a vehicle storage facility license.

The bill was read second time and was passed to engrossment by a viva voce vote.

**COMMITTEE SUBSTITUTE  
SENATE BILL 946 ON THIRD READING**

Senator Patterson moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 946** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: West.

**CSSB 946** was read third time and was passed by a viva voce vote.

**REPORT OF COMMITTEE ON NOMINATIONS**

Senator Madla submitted the following report from the Committee on Nominations:

**TO THE SENATE OF THE SEVENTY-FIFTH LEGISLATURE:**

We, your Committee on Nominations, to which were referred the following appointments, have had same under consideration and report them back to the Senate with a recommendation that they be confirmed.

To be a Member of the **TEXAS ALCOHOLIC BEVERAGE COMMISSION**: Allan Shivers, Jr., Travis County.

To be Members of the **TEXAS COMMISSION ON ALCOHOL AND DRUG ABUSE**: Rolland Craten Allen III, Nueces County; Beverly Barron, Ector County; Hector Delgado, El Paso County; Dorothy L. Grasty, Tarrant County; Norwood W. Knight-Richardson, M.D., Galveston County; James C. Oberwetter, Dallas County.

To be Members of the **TEXAS BOARD ON AGING**: Miriam Ann Burton, Montgomery County; V. F. Jack Burton, O.D., Johnson County; Thomas Edwin Oliver, Harris County; Janet P. Patterson, Dallas County; William Toler Shaner, Midland County; Holly Harvel Williamson, Harris County.

To be Members of the **TEXAS BOARD OF CHIROPRACTIC EXAMINERS**: Keith Hubbard, D.C., Tarrant County; Oliver R. Smith, Jr., D.C., El Paso County; Dora Ines Valverde, Hidalgo County; John Clark Weddle, D.C., Rockwall County; Carolyn Davis Williams, D.C., Harris County.

To be a Member of the **TEXAS LOTTERY COMMISSION**: John L. Hill, Jr., Harris County.

To be Members of the **TEXAS STATE BOARD OF MEDICAL EXAMINERS**: Lee S. Anderson, M.D., Tarrant County; Peter Chang, M.D., Harris County; Ann Forehand, Bowie County; Edward S. Hicks, Sr., Nueces County; Maria del Consuelo "Connie" Navar-Clark, El Paso County; Larry Price, D.O., Bell County; Janet Tornelli-Mitchell, M.D., Dallas County; Jenat Terhune "Teddy" Turner, Travis County.



To be Members of the STATE PENSION REVIEW BOARD: Leonard R. Cargill, Jr., Harris County; Craig S. Goralski, Sr., Harris County; William Mahomes, Jr., Collin County; Don C. Reynolds, Tarrant County; Frederick E. Rowe, Jr., Dallas County; Shari Ovalline Shivers, Travis County.

To be a Member of the STATE PRESERVATION BOARD: Dealey Decherd Herndon, Travis County.

To be Members of the TEXAS RACING COMMISSION: Larry Jay Christopher, Houston County; James L. Schulze, D.V.M., Montgomery County.

To be a Member of the TEXAS TRANSPORTATION COMMISSION: Robert Lee Nichols, Cherokee County.

To be Members of the TRINITY RIVER AUTHORITY OF TEXAS BOARD OF DIRECTORS: Leslie C. Browne, Tarrant County; Patricia Taylor Clapp, Dallas County; Hector Escamilla, Jr., Dallas County; Benny L. Fogleman, Polk County; Jane M. Fouty, Navarro County; Edward Eugene Hargett, Houston County; John W. Jenkins, Chambers County; James W. Porter, Dallas County; Jack C. Vaughn, Jr., Dallas County; Walter C. White, Trinity County.

To be Members of the TEXAS COUNTY AND DISTRICT RETIREMENT SYSTEM BOARD OF TRUSTEES: Martha Gustavsen, Montgomery County; John R. Marshall, Tarrant County; William A. Melton, Sr., Dallas County; Steven Michael Radack, Harris County.

To be a Member of the EMPLOYEES RETIREMENT SYSTEM OF TEXAS BOARD OF TRUSTEES: Carolyn Gallagher, Travis County.

Consideration Pending: To be Members of the SOUTHWEST TRAVIS COUNTY WATER DISTRICT BOARD OF DIRECTORS: D. Jarrett Bates, Travis County; Kirby L. Brown, Travis County; Kevin Cromack, Travis County; Colin G. Haza, Travis County; Mark C. Kelling, Travis County; Kenneth Bruce Levine, Travis County; Duncan C. Norton, Travis County; Darlene Rojas-Wilson, Travis County; John Francis Williams, Travis County.

To be Members of the TEACHER RETIREMENT SYSTEM OF TEXAS BOARD OF TRUSTEES: James P. Cummings, Sr., Tom Green County; James H. Simms, Potter County; Ronald G. Steinhart, Dallas County; Wendell Whittenburg, Nolan County.

To be Members of the TEXAS MUNICIPAL RETIREMENT SYSTEM BOARD OF TRUSTEES: Victoria Lee Haper LaFollett, Gregg County; Charles E. Windwehen, Victoria County.

Consideration Pending: To be a Member of the TEXAS COSMETOLOGY COMMISSION: Brian P. King, Harris County.

To be Members of the TEXAS APPRAISER LICENSING AND CERTIFICATION BOARD: Benjamin Edwin Barnett, Dallas County; Leonel Garza, Jr., Hidalgo County; Vidal Gonzalez, Val Verde County; Jacqueline G. Humphrey, C.P.A., Potter County; Eduardo A. Lopez, Nueces County; A. E. "Butch" Nelson, Jr., Taylor County; Debra S. Runyan, Bexar County; Robert A. "Pete" Seale, Jr., Harris County; James Melvin Synatzske, Erath County; Cecil Wayne Wimberly, Bosque County.

To be Members of the TEXAS DIABETES COUNCIL: Maria C. Alen, M.D., Hidalgo County; Gene Bell, R.N., Lubbock County; John Stuart Fitts, Dallas County; Victor Hugo Gonzalez, M.D., Hidalgo County; Judith E. Lowe Haley, Harris County; Lawrence B. Harkless, D.P.M., Bexar County; Richard S. "Rick" Hayley, Nueces County; T. Ray McCann, Titus County; Cheryl Jenkins Porter, Midland County; Philip L. Ricks II, Bexar County.

To be Members of the TEXAS STATE BOARD OF PUBLIC ACCOUNTANCY: April L. Eyeington, C.P.A., Brazos County; Gwen B. Gilbert, C.P.A., Dallas County; Rebecca Beard Junker, C.P.A., Fort Bend County; Reagan S. McCoy, Bexar County; Lou Miller, Bexar County; Janet Forgey Parnell, Hemphill County; Edward L. Summers, C.P.A., Travis County; Barbara J. Thomas, Harris County.

To be Members of the TEXAS COMMISSION FOR THE BLIND: James Laurence Caldwell, Ph.D., Travis County; C. Robert Keeney, Jr., Harris County; William Frank Mullican, Jr., Lubbock County; Don W. Oates, Nacogdoches County; Beverley A. Stiles, Duval County; John M. Turner, Dallas County.

#### NOTICE OF CONSIDERATION OF NOMINATIONS

Senator Madla gave notice that he would Monday, May 19, 1997, at the conclusion of morning call submit to the Senate for consideration nominations to agencies, boards, and commissions of the state.

#### HOUSE BILL 1345 ON THIRD READING

The Presiding Officer laid before the Senate **HB 1345** on its third reading and final passage. The Constitutional Three-day Rule was suspended, and further consideration was postponed today.

**HB 1345**, Relating to the issuance of certain permits to move certain heavy equipment over a state highway.

Question—Shall **HB 1345** be read third time?

**HB 1345** was read third time.

Senator Truan offered the following amendment to the bill:

#### Floor Amendment No. 1

Amend **HB 1345** by inserting on page 1 line 32 new subsection (g):

(g) The department shall submit to the Lieutenant Governor and Speaker of the House of Representatives by December 1 of each even

numbered year a report describing the cumulative effects on the state highway system, including county roads, of permits issued under subsection (c)(3) during the previous two year period.

The amendment was read and was adopted by unanimous consent.

**HB 1345** as amended was finally passed by the following vote:  
Yeas 30, Nays 0.

Absent-excused: West.

#### **HOUSE BILL 770 ON SECOND READING**

On motion of Senator Shapleigh and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**HB 770**, Relating to the acquisition by the Parks and Wildlife Department of real property owned by the permanent school fund.

The bill was read second time and was passed to third reading by a viva voce vote.

#### **HOUSE BILL 770 ON THIRD READING**

Senator Shapleigh moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 770** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: West.

**HB 1345** was read third time and was passed by the following vote:  
Yeas 30, Nays 0. (Same as previous roll call)

#### **GUESTS PRESENTED**

Senator Luna was recognized and introduced to the Senate a group of fifth-grade students and their teachers and chaperones from Woodlawn Elementary School of San Antonio.

The Senate welcomed its guests.

#### **HOUSE BILL 2300 ON SECOND READING**

On motion of Senator Shapleigh and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**HB 2300**, Relating to the creation, administration, powers, duties, operation, and financing of the Paseo del Este Municipal Utility District and to the authorization of bonds and the levy of taxes; providing civil penalties.

The bill was read second time and was passed to third reading by a viva voce vote.

**HOUSE BILL 2300 ON THIRD READING**

Senator Shapleigh moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2300** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: West.

**HB 2300** was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

(Senator Brown in Chair)

**HOUSE BILL 2683 ON SECOND READING**

On motion of Senator Wentworth and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**HB 2683**, Relating to subdivision descriptions in contracts to convey real property.

The bill was read second time.

Senator Wentworth offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend **HB 2683** in SECTION 1 of the bill, in added Section 12.002(d), Property Code (committee printing, page 1, line 23), by inserting between "(d)" and "Subsection (c)", "Except in the case of a subdivision located in an "affected county", as defined by Section 232.021, Local Government Code.".

The amendment was read and was adopted by a viva voce vote.

**HB 2683** as amended was passed to third reading by a viva voce vote.

**HOUSE BILL 2683 ON THIRD READING**

Senator Wentworth moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2683** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: West.

**HB 2683** was read third time and was passed by a viva voce vote.

**SENATE RESOLUTIONS ON FIRST READING**

The following resolutions were introduced, read first time, and referred to the committees indicated:

**SCR 92** by Haywood

Designating Knox City as the Seedless Watermelon Capital of Texas.  
To Committee on Administration.

**SCR 93** by Wentworth

Designating the first week of April, 1997, as Texas Natural Resources Week.  
To Committee on Administration.

**SCR 94** by Wentworth

Commending the Natural Resources Foundation of Texas for its work in establishing the Natural Resources Academies.  
To Committee on Administration.

**HOUSE BILLS AND RESOLUTIONS ON FIRST READING**

The following bills and resolutions received from the House were read first time and referred to the committees indicated:

**HB 21** to Committee on Jurisprudence.  
**HB 102** to Committee on Economic Development.  
**HB 119** to Committee on Health and Human Services.  
**HB 159** to Committee on State Affairs.  
**HB 298** to Committee on State Affairs.  
**HB 1327** to Committee on Jurisprudence.  
**HB 1453** to Committee on Jurisprudence.  
**HB 1467** to Committee on Criminal Justice.  
**HB 1477** to Committee on Economic Development.  
**HB 1659** to Committee on State Affairs.  
**HB 1759** to Committee on Natural Resources.  
**HB 2324** to Committee on Criminal Justice.  
**HB 2474** to Committee on State Affairs.  
**HB 2481** to Committee on Health and Human Services.  
**HB 2571** to Committee on Health and Human Services.  
**HB 2633** to Committee on Jurisprudence.  
**HB 2705** to Committee on Natural Resources.  
**HB 2909** to Committee on Criminal Justice.  
**HB 2913** to Committee on Health and Human Services.  
**HB 3054** to Committee on Health and Human Services.  
**HB 3059** to Committee on Natural Resources.  
**HB 3075** to Committee on Health and Human Services.  
**HB 3512** to Committee on State Affairs.  
**HB 3575** to Committee on Economic Development.  
**HB 3576** to Committee on State Affairs.  
**HJR 18** to Committee on State Affairs.  
**HJR 104** to Committee on State Affairs.  
**HCR 237** to Committee on Administration.  
**HCR 245** to Committee on Administration.  
**HCR 258** to Committee on Administration.

**COMMITTEE SUBSTITUTE****HOUSE BILL 1091 ON SECOND READING**

On motion of Senator Zaffirini and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**CSHB 1091**, Relating to the parent-child relationship, including suits affecting the parent-child relationship, the establishment of paternity, the termination of the parent-child relationship, and the adoption of children; providing penalties.

The bill was read second time.

Senator Harris offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend **CSHB 1091** by adding Section 30, as follows, and renumber accordingly:

Section 30. Section 153.139, Family Code, is hereby repealed.

The amendment was read and was adopted by a viva voce vote.

**CSHB 1091** as amended was passed to third reading by a viva voce vote.

**COMMITTEE SUBSTITUTE  
HOUSE BILL 1091 ON THIRD READING**

Senator Zaffirini moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 1091** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: West.

**CSHB 1091** was read third time and was passed by a viva voce vote.

(Senator Sibley in Chair)

**COMMITTEE SUBSTITUTE  
SENATE BILL 1814 ON SECOND READING**

On motion of Senator Duncan and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

**CSSB 1814**, Relating to modifications of the official cotton growers' boll weevil eradication program.

The bill was read second time.

Senator Duncan offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend **CSSB 1814** by striking all below the enacting clause and substituting the following:

**ARTICLE 1**

**SECTION 1.01.** Section 74.101, Agriculture Code, is amended to read as follows:

**Sec. 74.101. FINDINGS AND DECLARATION OF POLICY.** (a) It is hereby found and declared that:

(1) the insects *Anthonomus grandis* Boheman, known as the boll weevil, and *Pectinophora gossypiella*, known as the pink bollworm, are public nuisances and a menace to the cotton industry, and their eradication is a public necessity [boll weevil entered Texas from Mexico in 1892 and presents a major economic threat to Texas' cotton crop];

(2) because of the differences in soil conditions, growing seasons, farming techniques, and climate conditions among several areas in the state where cotton is grown, the eradication and suppression of the nuisance can best be accomplished by dividing the cotton-growing areas into separate zones so that integrated pest management programs may be developed for each zone [there exists a need to develop, carry out, and participate in programs of research such as disease and insect control; marketing to show low risk of pests in interstate and intrastate movement of cotton commodities; promotion of pest-free cotton commodities which increase market demand; and education of cotton raisers, cotton users, regulators, policymakers, and the general public on the effect of pests on cotton, its utility, its marketing, its yield, and its promotion]; [and]

(3) there is a need for a private entity outside the department whose members are actual cotton growers who would be represented on the board of the entity by directors elected by them to act as the agent of the department to manage eradication and suppression programs and to furnish expertise in the field of insect control and eradication, because such an entity would enhance the interest and participation of cotton growers in the program; and

(4) because of the progress made in eradication, investments made by cotton growers in certain areas, the potential injustice to certain cotton growers who have made such investments, and the stage of development of the cotton crops in the statutory eradication zones, an urgent public necessity exists to validate and ratify the assessments, agreements, and obligations of the Texas Boll Weevil Eradication Foundation, Inc., made or incurred by the foundation and related to certain statutory zones [it is the intent of the legislature that the program be carried out with the best available integrated pest management techniques].

(b) It is the intent of the legislature that the program of eradication and suppression be carried out with the best available integrated pest management techniques.

(c) The department may recover costs for administration of this subchapter.

~~[(c) The creation and use of a boll weevil eradication foundation as a vehicle to provide for assessments and governing boards and to establish eradication zones in order to suppress and eradicate boll weevils and other cotton pests are consistent with the goals and uses of revenue established under Article XVI, Section 68, of the Texas Constitution.]~~

SECTION 1.02. Subchapter D, Chapter 74, Agriculture Code, is amended by adding Section 74.1011 to read as follows:

Sec. 74.1011. DESIGNATION OF ENTITY TO CARRY OUT BOLL WEEVIL ERADICATION. (a) The Texas Boll Weevil Eradication Foundation, Inc., a Texas nonprofit corporation chartered by the secretary of state on September 14, 1993, shall be recognized by the department as the

entity to plan, carry out, and operate eradication and diapause programs to eliminate the boll weevil and the pink bollworm from cotton in the state under the supervision of the department as provided by this subchapter.

(b) The commissioner may terminate the foundation's designation as the entity recognized to carry out boll weevil eradication by giving 45 days' written notice to the foundation and by designating a successor entity. If the commissioner designates a successor to the foundation, the successor has all the powers and duties of the foundation under this subchapter.

SECTION 1.03. Section 74.102, Agriculture Code, is amended to read as follows:

Sec. 74.102. DEFINITIONS. In this subchapter:

(1) "Board" means the board of directors of the Texas Boll Weevil Eradication Foundation, Inc [~~official cotton growers' boll weevil eradication foundation~~].

(2) "Boll weevil" has the meaning assigned by Section 74.002 [~~of this code~~].

(3) "Commissioner" means commissioner of agriculture.

(4) "Cotton" means:

- (A) a cotton plant;
- (B) a part of a cotton plant, including bolls, stalks, flowers, roots, and leaves; or
- (C) cotton products, including seed cotton, cottonseed, and hulls.

(5) "Cotton grower" means a person [~~an individual~~] who grows cotton and receives income [~~on or after June 1, 1992,~~] from the sale of cotton. The term includes an individual who as owner, landlord, tenant, or sharecropper is entitled to share in the cotton grown and available for marketing from a farm or to share in the proceeds from the sale of the cotton from the farm [~~, under 7 C.F.R. Part 1413~~].

(6) "Eradication" means elimination of boll weevils or pink bollworms to the extent that the commissioner does not consider further elimination of boll weevils or pink bollworms necessary to prevent economic loss to cotton growers. Eradication includes diapause activities.

(7) "Eradication zone" means a geographic area:

- (A) established under Section 74.1021; or
- (B) designated by the commissioner in accordance with Section 74.105 in which cotton growers by referendum approve their participation in a boll weevil or pink bollworm eradication program.

(8) "Foundation" means the Texas Boll Weevil Eradication Foundation, Inc., a Texas nonprofit corporation [~~official cotton growers' boll weevil eradication foundation~~].

(9) [~~"High Plains Boll Weevil Suppression Program Area" includes Bailey, Borden, Briscoe, Castro, Cochran, Crosby, Dawson, Deaf Smith, Dickens, Floyd, Gaines, Garza, Hale, Hockley, Howard, Lamb, Lubbock, Lynn, Martin, Midland, Motley, Parmer, Swisher, Terry, and Yoakum counties. The High Plains Boll Weevil Suppression Program Area may also include other counties or parts of counties if areas are added to the High Plains Boll Weevil Suppression Program Area as provided under this subchapter.~~]



~~[(16)]~~ "Host" means a plant or plant product in which the boll weevil or pink bollworm is capable of completing any portion of its life cycle.

~~(10)~~ ~~[(11)]~~ "Infested" means the presence of the boll weevil or pink bollworm in any life stage or the existence of generally accepted entomological evidence from which it may be concluded with reasonable certainty that the boll weevil or pink bollworm is present.

~~(11)~~ ~~[(12)]~~ "Integrated pest management" is the coordinated use of pest and environmental information with available pest control methods to prevent unacceptable levels of pest damage by the most economical means and with the least possible hazard to people, property, and the environment.

~~(12)~~ "Pink bollworm" has the meaning assigned by Section 74.002.

~~(13)~~ "Regulated article" means an article carrying or capable of carrying the boll weevil or pink bollworm, including cotton plants, seed cotton, gin trash, other hosts, or mechanical cotton harvesters.

~~[(14)]~~ "St. Lawrence Cotton Growers Boll Weevil Control Zone" may include, subject to change as provided under this subchapter, all or part of Glasscock, Reagan, Upton, south Midland, or other counties.

~~[(15)]~~ The pink bollworm eradication zone includes Reeves and Pecos counties.]

SECTION 1.04. Subchapter D, Chapter 74, Agriculture Code, is amended by adding Section 74.1021 to read as follows:

Sec. 74.1021. STATUTORY ZONES. (a) The Northern High Plains Eradication Zone consists of Armstrong, Bailey, Briscoe, Castro, Floyd, Hale, Lamb, Parmer, Randall, and Swisher counties, and other areas as proposed by the commissioner by rule for inclusion in the zone and approved by referendum in the area to be added.

(b) The Rolling Plains Central Eradication Zone consists of Baylor, Callahan, Comanche, Eastland, Erath, Fisher, Haskell, Jones, King, Knox, Mitchell, Nolan, Palo Pinto, Scurry, Shackelford, Stephens, Stonewall, Throckmorton, and Young counties; all land in Archer County south of a line following Farm-to-Market Road 422 commencing at the Baylor County line running east to the intersection of Farm-to-Market Road 210, continuing east to the intersection of State Highway 25, and continuing east to the Clay County line; all land in Borden County east of a line seven miles west of the Scurry County line running south from the Garza County line to the Howard County line; and all land in Taylor County east of U.S. Highway 83 from a point commencing at the intersection of U.S. Highway 83 and the south Taylor County line, north to the town of Bradshaw; thence north of Farm-to-Market Road 1086, as the farm-to-market road proceeds west and north to the intersection of the Farm-to-Market Road 1086 and U.S. Highway 277, being all land lying north of the farm-to-market road and west of U.S. Highway 277 from the intersection of Farm-to-Market Road 1086 and U.S. Highway 277 to the point where U.S. Highway 277 intersects the south boundary line of Taylor County; all land in Brown County east of a line following State Highway 279 to Brownwood and continuing along U.S. Highway 377 south to the McCulloch County line; and other areas as proposed by the commissioner by rule for inclusion in the zone and approved by referendum in the area to be added.

(c) The St. Lawrence Eradication Zone consists of that area of Midland County south of a line 15 miles south of Interstate 20 running from the Ector County line east to the Glasscock County line; Glasscock, Reagan, and Upton counties; and other areas as proposed by the commissioner by rule for inclusion in the zone and approved by referendum in the area to be added.

(d) The South Texas Winter Garden Eradication Zone consists of Aransas, Atascosa, Austin, Bee, Bexar, Calhoun, Colorado, DeWitt, Dimmit, Duval, Frio, Goliad, Jackson, Jim Wells, Karnes, Kinney, Kleberg, La Salle, Lavaca, Live Oak, Matagorda, McMullen, Medina, Nueces, Refugio, San Patricio, Uvalde, Victoria, Wharton, Wilson, and Zavala counties, and other areas as proposed by the commissioner by rule for inclusion in the zone and approved by referendum in the area to be added. Brazoria and Fort Bend counties are included in the South Texas Winter Garden Eradication Zone only for purposes of the repayment of debt existing on April 30, 1997, and those counties may not be included in the zone for any other purpose unless the commissioner by rule proposes that an area be included in the zone and the proposal is approved by referendum in the area to be added.

(e) The Southern High Plains-Caprock Eradication Zone consists of Andrews, Cochran, Crosby, Dawson, Dickens, Gaines, Garza, Hockley, Howard, Kent, Lubbock, Lynn, Martin, Motley, Terry, and Yoakum counties; all land in Borden County lying west of a line seven miles west of the Scurry County line running south from the Garza County line to the Howard County line; that area of Midland County north of a line 15 miles south of Interstate 20 running from the Ector County line east to the Glasscock County line; and other areas as proposed by the commissioner by rule for inclusion in the zone and approved by referendum in the area to be added.

(f) The Southern Rolling Plains Eradication Zone consists of Coke, Coleman, Concho, Irion, McCulloch, Runnels, Schleicher, and Tom Green counties, all land in Taylor County lying west of U.S. Highway 83 from a point commencing at the intersection of U.S. Highway 83 and the south Taylor County line, north of the town of Bradshaw; thence all the land lying south of Farm-to-Market Road 1086, as the farm-to-market road proceeds west and north to its intersection with U.S. Highway 277, being all land lying south of the farm-to-market road and east of U.S. Highway 277 from the intersection of Farm-to-Market Road 1086 and U.S. Highway 277 to the point where U.S. Highway 277 intersects the south boundary line of Taylor County, and other areas as proposed by the commissioner by rule for inclusion in the zone and approved by referendum in the area to be added.

SECTION 1.05. Subchapter D, Chapter 74, is amended by adding Sections 74.1041 and 74.1042 to read as follows:

Sec. 74.1041. INTERIM ADVISORY GROUPS. (a) The commissioner may designate an interim advisory group for each geographic region of the state that is to be considered by the commissioner for inclusion in an eradication zone. The groups shall gather advice, input, and guidance from cotton growers from each area of the state concerning the interest in and concerns about the implementation of this subchapter.

(b) Each interim advisory group shall consider and make recommendations to the commissioner concerning:

- (1) the geographic boundaries for the proposed eradication zone;
- (2) the amount of local interest in operating an eradication program;
- (3) the basis and amount of an assessment necessary to support an eradication program;
- (4) the need to restructure any pre-existing debt from prior eradication activities;
- (5) crediting a cotton grower's 1996 assessment payments to any future assessment; and
- (6) any other matter requested by the commissioner.

(c) Each interim advisory group shall include at least one cotton grower from each county and other persons as determined by the commissioner.

Sec. 74.1042. CREATION OF NONSTATUTORY ERADICATION ZONES. (a) The commissioner may by rule designate an area of the state as a proposed eradication zone as long as the area is not within a statutory zone under Section 74.1021 that has approved an eradication program by referendum.

(b) The commissioner may hold a public hearing within the proposed eradication zone to discuss the proposed geographic boundaries of the zone. The public hearing may include any other topics allowed under this subchapter.

(c) After the adoption of a rule under Subsection (a), the commissioner shall conduct a referendum under Section 74.105.

SECTION 1.06. Subsections (a), (d), (e), and (f), Section 74.105, Agriculture Code, are amended to read as follows:

(a) The commissioner [organization certified under Section 74.104 of this code or the foundation] shall conduct a referendum in each proposed eradication zone to determine whether cotton growers desire to establish an [official boll weevil or pink bollworm] eradication zone.

(d) If a referendum to establish an eradication zone fails, the concurrent election of a board member [members] from the proposed eradication zone under Section 74.106 [of this code] has no effect, and the commissioner shall appoint a representative to the board from the area.

(e) The [organization certified under Section 74.104 of this code or the foundation], as appropriate, may request the commissioner to call additional referenda in a proposed eradication zone in which a referendum has failed. An additional eradication zone referendum and concurrent board election may be held no earlier than the 121st day after the date of the last referendum.

(f) After the passage of any referendum, the eligible voters shall be allowed, by subsequent referenda [periodically as specified in the initial referendum], to vote on whether to continue their assessments. All of the requirements for an initial referendum must be met in subsequent referenda.

SECTION 1.07. Section 74.106, Agriculture Code, is amended by amending Subsections (a), (c), and (d) and adding Subsection (h) to read as follows:

(a) The initial election for board members from a proposed eradication zone shall be held concurrently with an eradication zone referendum held under Section 74.105 [of this code]. Each eradication zone shall be represented on the board and shall remain represented on the board until

eradication operations are concluded and all debt of the eradication zone is paid.

(c) A cotton grower who is eligible to vote in a referendum or election under this subchapter is eligible to be a candidate for and member of the board if the person has at least seven years of experience as a cotton grower and otherwise meets the qualifications for the position.

(d) A cotton grower who wants to be a candidate for the board must meet the qualifications for board membership and file an application with the [secretary of the foundation or, before certification of the organization under Section 74.104 of this code, the] commissioner. The application must be:

(1) filed not later than the 30th day before the date set for the board election;

(2) on a form approved by the commissioner; and

(3) signed by at least 10 cotton growers who are eligible to vote in the board election.

(h) Each board member shall be sworn into office by a representative of the commissioner by taking the oath of office required for elected officers of the state.

SECTION 1.08. Section 74.107, Agriculture Code, is amended to read as follows:

Sec. 74.107. COMPOSITION OF BOARD. (a) The board shall be composed of members elected from each statutory eradication zone established and validated by referendum, members appointed by the commissioner from other cotton growing areas of the state, and members appointed by the commissioner under Subsection (b). The commissioner shall appoint an initial board composed of 15 members. Except as provided by Subsection (b), the term of each board position may not exceed four years [High Plains Boll Weevil Suppression Program Area and the St. Lawrence Cotton Growers Boll Weevil Control Zone are separate zones for the purposes of boll weevil eradication; however, an area in the St. Lawrence Cotton Growers Boll Weevil Control Zone may be assigned to another zone as provided by this subchapter].

(b) In making appointments under this section, the commissioner shall appoint the following for four-year terms:

(1) an agricultural lender;

(2) an independent entomologist or an integrated pest management specialist;

(3) two representatives from industries allied with cotton production; and

(4) a representative from the pest control industry.

(c) The commissioner [board, with the commissioner's approval,] may change the number of board positions or the eradication zone representation on the board to accomodate changes in the number of eradication zones. A change under this subsection may not contravene another provision of this subchapter.

(d) A vacancy on the board shall be filled by appointment by the commissioner for the unexpired term.

~~(e) On 30 days' notice and opportunity for hearing, the commissioner may replace any unelected board member of the foundation.~~

SECTION 1.09. Section 74.108, Agriculture Code, is amended to read as follows:

Sec. 74.108. ~~[BOARD]~~ POWERS OF BOARD AND COMMISSIONER.

(a) The board may:

(1) ~~conduct board elections;~~  
~~[(2) conduct eradication zone referenda;~~  
~~[(3) conduct assessment referenda under Section 74.113 of this code;~~  
~~[(4)]~~ conduct programs consistent with the declaration of policy stated in Section 74.101 ~~[of this code];~~

(2) ~~[(5)]~~ accept, as necessary to implement this chapter, gifts and grants;

(3) ~~[(6)]~~ borrow money, with the approval of the commissioner, as necessary to execute this chapter;

(4) ~~[(7)]~~ take other action and exercise other authority as necessary to execute any act authorized by this subchapter or the Texas Non-Profit Corporation Act (Article 1396-1.01 et seq., Vernon's Texas Civil Statutes); and

(5) ~~[(8)]~~ form an advisory committee composed of individuals from this state, other states, or other countries and change membership on the committee, as necessary. Any advisory committee created under this subdivision for the purpose of establishing treatment methods shall include among its members persons with knowledge of the effects of different treatments on the health of agricultural workers, the local population, and the ecosystem, including but not limited to the effects of a particular method of treatment on beneficial organisms and wildlife, the potential for secondary infestations from nontarget pests, and the potential for pest resistance to particular methods of treatment.

(b) The commissioner ~~[board]~~ may by rule add an area to an eradication zone if:

(1) cotton production has begun or could begin ~~[begins]~~ in the area;  
(2) the area is adjacent to an eradication zone or is in an area with biological characteristics similar to the eradication zone; and  
(3) the addition is approved in a referendum held in the area.

(c) The board must adopt a procurement policy, subject to approval by the commissioner, outlining the procedures to be used in purchasing ~~[may initiate the boll weevil eradication program in an area added to an eradication zone and may assess cotton growers in the area added to the eradication zone to ensure the integrity and success of the eradication program. The board shall provide notice of intent to initiate eradication and collect assessments through informational meetings in the affected area not later than 60 days before the date recognized by the board as the average planting date for the area].~~

~~[(d) The board may not reduce the area of the High Plains Boll Weevil Suppression Program Area.]~~

SECTION 1.10. Section 74.109, Agriculture Code, is amended by amending Subsections (a), (d), (e), (g), and (h) and adding Subsections (i) and (j) to read as follows:

(a) The board shall make available to the state auditor for inspection at an annual independent audit all books, records of account, and minutes of proceedings maintained by the foundation. The financial transactions of the foundation are subject to audit by the state auditor in accordance with Chapter 321, Government Code.

(d) The foundation and the board are state agencies for the following purposes only:

(1) exemption from taxation including exemption from sales and use taxes, vehicle registration fees, and taxes under Chapter 152, Tax Code; and

(2) indemnification under Chapter 104, Civil Practice and Remedies Code.

(e) Funds collected by the foundation are not state funds and are not required to be deposited in the state treasury. The foundation shall deposit all money collected under this subchapter in a bank or other depository approved by the commissioner [board].

(g) The board shall collect data on the type and quantity of pesticides used in accordance with this subchapter. The data shall be filed with the commissioner.

(h) All revenue collected under this subchapter shall be used solely to finance programs approved by the commissioner as consistent with this subchapter [and applicable provisions of the constitution].

(i) The foundation is subject to the requirements of:

(1) the open meetings law, Chapter 551, Government Code;

(2) the open records law, Chapter 552, Government Code; and

(3) the administrative procedure law, Chapter 2001, Government Code.

(j) A board member may not vote on any matter in which the member has a direct pecuniary interest. A board member is subject to the same restrictions as a local public official under Chapter 171, Local Government Code.

SECTION 1.11. Section 74.110, Agriculture Code, is amended to read as follows:

Sec. 74.110. LIABILITY OF FOUNDATION MEMBERS, OFFICERS, AND EMPLOYEES AND APPLICATORS. (a) Except for instances of gross negligence, individual criminal actions, or acts of dishonesty, the foundation, the foundation's members, directors, officers, and employees, and applicators are not individually liable to a cotton grower or other person for:

(1) errors in judgment;

(2) mistakes; or

(3) other acts or omissions.

(b) A foundation member, officer, or employee or an applicator is not individually liable for an act or omission of another foundation member, officer, or employee or of an applicator.

(c) Except as provided by Subsection (d), an applicator is liable to a person for death, damage, or injury to a person or the person's property proximately caused by the applicator while acting to further or support eradication or diapause efforts undertaken pursuant to this subchapter if the death, damage, or injury resulted from:

(1) any negligent act or omission in the application, loading, handling, storage, or use of pesticides or other chemicals;

(2) any act taken with specific intent to wrongfully injure the person or the person's property; or

(3) any act done with conscious indifference or reckless disregard for the safety of others.

(d) An applicator is immune from civil liability for any act or omission resulting in death, damage, or injury if the applicator:

(1) was acting pursuant to reasonably precise directions, instructions, or specifications provided by the foundation;

(2) complied with those directions, instructions, or specifications; and

(3) did not actually know of any risks of harm to the person injured or property damaged before the time of the act or omission in question that were not known to the foundation at that time.

(e) The foundation shall have liability coverage in effect for any eradication or diapause efforts for which it uses applicators. The coverage shall apply to acts and omissions of the foundation and volunteers and be in the amount of at least \$500,000 for each single occurrence of death, bodily injury, or property damage.

(f) In this section, "applicator" means an individual or other person that is not a member, director, officer, or employee of the foundation and that contracts with the foundation to apply pesticides or other chemicals using aircraft or other equipment to further or support the eradication or diapause efforts undertaken pursuant to this subchapter.

(g) Nothing in this section shall be construed to mean that an applicator or other person cannot be held responsible for violations of state and federal pesticide and herbicide laws and regulations adopted thereunder.

SECTION 1.12. Subsections (f), (g), (h), and (i), Section 74.112, Agriculture Code, are amended to read as follows:

(f) If 40 percent or more of the producers eligible to vote within a zone participating in the program present to the commissioner [foundation] a petition calling for a referendum of the qualified voters on the proposition of discontinuing the program, the commissioner [board] shall conduct a referendum for that purpose.

(g) The commissioner [board] shall give notice of the referendum, the referendum shall be conducted, and the results shall be declared in the manner provided by law for the original referendum and election, with any necessary exceptions provided by rule of the commissioner.

(h) The commissioner [board] shall conduct the referendum within 90 days of the date of filing of the petition, except that no such referendum may be held within two years of any other referendum in the eradication zone pertaining to establishing or discontinuing the eradication zone.

(i) Approval of the proposition is by the same vote as required in a referendum under Section 74.114(g) [majority vote of those voting]. If the proposition is approved, the eradication program is abolished and the eradication zone ceases to exist on payment of all debts of the eradication zone.

SECTION 1.13. Section 74.113, Agriculture Code, is amended to read as follows:

Sec. 74.113. ASSESSMENT REFERENDA. (a) The commissioner ~~[foundation]~~ shall propose ~~[determine]~~ the assessment needed in each eradication zone to ensure the stability of the cotton industry by eradicating the public nuisance caused by the boll weevil and the pink bollworm ~~[accomplish the following goal: to finance programs of marketing, promotion, research, and education calculated to increase the production and use of cotton]~~.

(b) The commissioner ~~[foundation]~~ shall propose in a referendum the:

(1) maximum assessment to be paid by cotton growers having production in the eradication zone; and

(2) time for which the assessment will be made.

(c) ~~With the commissioner's approval, the~~ ~~[The]~~ foundation may make an assessment in an eradication zone at a level less than the assessment approved by the referendum.

(d) The commissioner ~~[foundation]~~ shall conduct an assessment referendum under the procedures provided by Section 74.114 ~~[of this code]~~.

(e) If an assessment referendum is approved, the foundation may collect the assessment.

(f) An assessment levied on cotton growers in an eradication zone may be applied only to:

(1) eradication in that zone;

(2) the foundation's operating costs, including payments on debt incurred for a foundation activity, except that the funds of one zone may not be used to pay another zone's bank loans ~~or debts~~; and

(3) the conducting of other programs consistent with the declaration of policy stated in Section 74.101 ~~[of this code]~~.

(g) The assessment shall be adequate and necessary to achieve the goals of this subchapter. The amount of the assessment shall be determined by criteria established by the commissioner, including:

(1) the extent of infestation;

(2) the amount of acreage planted;

(3) historical efforts to eradicate;

(4) the growing season;

(5) epidemiology;

(6) historical weather conditions; and

(7) the costs and financing of the program.

(h) The commissioner shall give notice of and hold a public hearing within the eradication zone regarding the proposed assessment referendum. Before the referendum, the commissioner shall review and approve:

(1) the amount of the assessment;

(2) the basis for the assessment;

(3) the time for payment of the assessment;

(4) the method of allocation of the assessment among cotton growers;

(5) the restructuring and repayment schedule for any pre-existing debt; and



(6) the amount of debt to be incurred in the eradication zone.

(i) The commissioner shall on a zone-by-zone basis set the date on which assessments are due and payable.

(j) Each year, the commissioner shall review and approve the foundation's operating budget.

(k) The foundation shall prepare and mail billing statements to each cotton grower subject to the assessment that state the amount due and the due date. The assessments shall be paid in cash to the foundation.

SECTION 1.14. Subsections (a), (c), (d), (f), (h), and (i), Section 74.114, Agriculture Code, are amended to read as follows:

(a) The commissioner ~~[foundation]~~ shall conduct a referendum or board election authorized under this subchapter [its jurisdiction]. At the end of each four-year period in which an eradication program has been operational in a zone, the commissioner shall hold a referendum in the zone on the continuation of the eradication program. The referendum shall be held at the same time as the election of a board member from the zone. Approval of the referendum on continuation is by a majority of those voting in the referendum.

(c) The commissioner shall adopt rules for voting in ~~[the initial]~~ board elections ~~[election]~~ and ~~[initial]~~ referenda to establish or continue eradication zones. ~~[The board shall adopt rules for voting in other referenda and board elections.]~~ Rules adopted under this subsection must include provisions for determining:

(1) who is a cotton grower eligible to vote in an election or referendum;

(2) whether a board member is elected by a plurality or a majority of the votes cast; and

(3) the area from which each board member is elected.

(d) A cotton grower having cotton production in a proposed or established eradication zone is entitled to:

(1) vote in a referendum concerning the eradication zone; and

(2) elect board members to represent the eradication zone.

(f) Ballots in a referendum or board election shall be mailed directly to a central location, to be ~~[initially]~~ determined by the commissioner ~~[and later determined by the board]~~. A cotton grower eligible to vote in a referendum or board election who has not received a ballot from the commissioner, foundation, or another source shall be offered the option of requesting a ballot by mail or obtaining a ballot at the office of the county agent of the Texas Agricultural Extension Service or a government office distributing ballots in a county in the proposed or established zone in which the referendum or board election is conducted.

(h) If a referendum under this subchapter is not approved, the ~~[foundation may with the approval of the]~~ commissioner may conduct another referendum. A referendum under this subsection may not be held before the 121st day after the date on which the last referendum on the same issue was held.

(i) A public hearing regarding the proposed eradication program, including information regarding regulations to be promulgated by the

~~[foundation and the]~~ commissioner, ~~may~~ ~~[shall]~~ be held by the commissioner ~~[foundation]~~ in each of several locations within each boll weevil or pink bollworm eradication zone. The area posted for each hearing shall include no more than six contiguous counties that have cotton production at the time of the hearing.

SECTION 1.15. Section 74.115, Agriculture Code, is amended to read as follows:

Sec. 74.115. FAILURE TO PAY ASSESSMENTS. (a) A cotton grower who fails to pay an assessment levied under this subchapter when due may be subject, after reasonable notice and opportunity for hearing, to a penalty set by the commissioner ~~[board]~~. The amount of the penalty shall be based on:

(1) the seriousness of the violation, including the nature, circumstances, and extent of the violation;

(2) the history of previous violations;

(3) the amount necessary to deter future violations;

(4) the economic situation of the cotton grower; and

(5) any other matter that justice may require.

(b) ~~[A cotton grower who fails to pay all assessments and penalties before the 10th day after receiving notice of the delinquency shall destroy any cotton growing on the grower's acreage that is subject to the assessment. Cotton plants that are not destroyed are a public nuisance, and, on recommendation of the foundation, the department shall follow the procedures for destruction of host plants provided by Subchapters A and B of this chapter, including procedures for reimbursement by the grower of costs required for destruction. The department may apply to a district court with jurisdiction in the county in which the public nuisance is located to have the nuisance condemned and destroyed. Injunctive relief available to the department under this subchapter is in addition to any other legal remedy available to the department. The department is not required to file a bond in a proceeding under this subsection.]~~

~~[(c)]~~ In addition to any other remedies for the collection of assessments and penalties, the department may place and perfect an assessment ~~[a]~~ lien on cotton produced and harvested that year from the acreage that is subject to the assessment that is due and unpaid. A buyer of cotton takes free of the assessment lien if the buyer has not received written or actual notice of the assessment lien ~~[from the department]~~ or if the buyer has paid for the cotton by a check on which the department is named as a joint payee. In an action to enforce the assessment lien, the burden is on the department to prove that the buyer of cotton received written or actual notice of the assessment lien. A buyer of cotton other than a person buying cotton from the cotton grower takes free of the assessment lien.

SECTION 1.16. Section 74.116, Agriculture Code, is amended to read as follows:

Sec. 74.116. EXEMPTION FROM ASSESSMENT PENALTIES. (a) The commissioner by rule shall adopt criteria for exemption from payment of assessment penalties under Section 74.115 of this code a cotton grower for whom payment would impose an undue financial burden.

(b) A cotton grower may not qualify for an exemption under this section for a year in which the amount computed by subtracting the assessments and penalties due under this subchapter from the cotton grower's net income subject to federal income taxation in the previous year is greater than \$15,000.

(c) A cotton grower who applies for an exemption under this section must use a form prescribed by the commissioner. A cotton grower must file a separate application form for each year for which the cotton grower claims an exemption.

(d) ~~The [commissioner shall forward to the foundation a completed exemption application form. The foundation shall determine whether the applicant qualifies for an exemption and shall notify the commissioner of its determination.~~

~~[(e) On notification by the foundation that a cotton grower qualifies for an exemption, the commissioner shall exempt the cotton grower from payment of an assessment penalty under Section 74.115 of this code.~~

~~[(f) On the foundation's recommendation, the] commissioner may establish a payment plan for a cotton grower applying for an exemption under this section.~~

(e) ~~[(g)]~~ The commissioner shall promptly notify an applicant of the ~~[foundation's]~~ determination regarding the applicant's request for an exemption.

(f) ~~[(h)]~~ If an exemption under this section is denied, assessments and penalties for the year for which the application is made are due on the later of:

(1) the date on which they would be due in the absence of an application for exemption; or

(2) 30 days after the date the applicant receives notice of the denial.

(g) In addition to the authority provided under Subsections (a)-(f), the commissioner may, on recommendation of the foundation, reduce or waive assessment penalties as appropriate.

SECTION 1.17. Section 74.117, Agriculture Code, is amended to read as follows:

Sec. 74.117. ENTRY OF PREMISES; ERADICATION ACTIVITIES; INSPECTIONS. The department, the foundation, or a designated representative of either entity may enter cotton fields or other premises to carry out the purposes of this subchapter and Subchapters A and B of this chapter, which include the treatment and[;] monitoring[,-and destruction] of growing cotton or other host plants. The department, the foundation, or a designated representative of either entity may inspect fields or premises in this state for the purpose of determining whether the property is infested with the boll weevil or the pink bollworm. An inspection must be conducted during reasonable daylight hours. The commissioner shall adopt rules that give notice to the cotton grower of the intent of the department, the foundation, or a designated representative of either entity to enter the cotton grower's fields or premises to carry out the purposes of this subchapter and Subchapters A and B of this chapter.

SECTION 1.18. Subsections (b), (c), and (d), Section 74.120, Agriculture Code, are amended to read as follows:

(b) Rules adopted under this section shall establish the criteria by which the foundation develops its ~~[rules;]~~ procedures[;] and methods of treatment, which ~~shall~~ ~~[rules]~~:

(1) establish a methodology for determining when boll weevil or pink bollworm population levels have reached economic significance;

(2) establish an effective treatment regimen that seeks to provide the least possible risk to workers, the public, and the environment;

(3) minimize the effects of the use of pesticides on long-term control methods, including but not limited to the effect a particular pesticide may have on biological controls;

(4) establish methods for monitoring boll weevils, pink bollworms, and secondary pests;

(5) establish methods for verifying pesticide use reduction; and

(6) consider the acute and chronic toxicity of particular pesticides and the quantity of particular pesticides needed. Eradication zone treatment plans may take into account the potential for the use of smaller quantities of more toxic substances to result in fewer health and environmental risks than larger quantities of less toxic substances.

(c) The ~~commissioner~~ ~~[foundation and the department]~~ may adopt other reasonable rules necessary to carry out the purposes of this subchapter and Subchapters A and B of this chapter. All rules issued under this subchapter must be adopted and published in accordance with state requirements. ~~[Rules adopted by the foundation under this section shall be consistent with rules adopted by the commissioner under this subchapter.]~~

(d) An advisory committee ~~may~~ ~~[shall]~~ be established to assist the commissioner in the development of rules adopted under this section. The advisory committee ~~may~~ ~~[shall]~~ be composed of:

(1) three cotton producers from different regions of the state, appointed by the commissioner;

(2) three entomologists with knowledge of the principles of integrated pest management, at least one of whom has special knowledge of nonchemical or biological pest control, appointed by the commissioner;

(3) two individuals with experience representing the general interests of the environment, appointed by the chair of the Texas Natural Resource Conservation Commission;

(4) an environmental engineer with expert knowledge of ground and surface water protection from contamination, appointed by the chair of the Texas Natural Resource Conservation Commission;

(5) a toxicologist, appointed by the Commissioner of Health; and

(6) an individual with experience representing the general interests of consumers and an individual with experience representing the general interests of agricultural workers, appointed by the governor.

SECTION 1.19. Section 74.121, Agriculture Code, is amended to read as follows:

Sec. 74.121. REPORTS. Each person in an active eradication zone growing cotton in this state shall furnish to the foundation on forms supplied by the foundation information that the foundation requires concerning the

size and location of all commercial cotton fields and of noncommercial patches of cotton grown for ornamental or other purposes. The foundation may provide an incentive for early and timely reporting.

SECTION 1.20. Section 74.124, Agriculture Code, is amended by amending Subsection (a) and adding Subsection (c) to read as follows:

(a) The foundation may carry out programs to destroy and eliminate the boll weevil and the pink bollworm in this state by cooperating through written agreements, as approved by the commissioner, with:

- (1) an agency of the federal government;
- (2) a state agency;
- (3) an appropriate agency of a foreign country contiguous to the affected area to the extent allowed by federal law;
- (4) a person who is engaged in growing, processing, marketing, or handling cotton; or
- (5) a group of persons in this state involved in similar programs to carry out the purposes of this subchapter.

(c) An agency, person, or group of persons that enters into an agreement with the foundation under Subsection (a) to carry out programs in an eradication zone may not enter into an agreement with the foundation to carry out programs in another eradication zone. This subsection does not preclude the sharing of technical information between an agency, person, or group of persons and the foundation.

SECTION 1.21. Section 74.125, Agriculture Code, is amended to read as follows:

Sec. 74.125. ORGANIC PRODUCERS. (a) The [~~board, in cooperation with the~~] commissioner[;] shall develop rules and procedures to:

- (1) protect the eligibility of organic producers to be certified by the commissioner;
- (2) ensure that organic and transitional certification by the commissioner continue to meet national certification standards in order for organic cotton to maintain international marketability; and
- (3) in all events maintain the effectiveness of the boll weevil or pink bollworm eradication program administered under this subchapter.

(b) The board may not treat or require treatment of organic cotton fields with chemicals that are not approved for use on certified organic cotton. Plow-up may be required as an alternative to chemicals. Rules [In the rules] adopted under Subsection (a)[~~the board~~] may provide indemnity for the organic producers for reasonable losses that result from a prohibition of production of organic cotton or from any requirement of destruction of organic cotton. If time is reasonably available for the production of an economically feasible alternative crop, the board may require mitigation of losses with the production of an alternative crop.

SECTION 1.22. Subsection (c), Section 74.126, Agriculture Code, is amended to read as follows:

(c) If the commissioner [~~or the foundation~~] determines that a violation of this subchapter or a rule adopted under this subchapter has occurred, the commissioner [~~or the foundation~~] may request that the attorney general or the county or district attorney of the county in which the alleged violation occurred or is occurring file suit for civil, injunctive, and/or other appropriate relief.

SECTION 1.23. Subchapter D, Chapter 74, Agriculture Code, is amended by adding Sections 74.128 and 74.129 to read as follows:

Sec. 74.128. ANNUAL REPORT. The board shall issue to the commissioner and the appropriate oversight committee in the house of representatives an annual report detailing its efforts to carry out the purposes of this subchapter.

Sec. 74.129. EXEMPTION FROM EXECUTION. All payments, contributions, and funds received or held by the foundation under this subchapter are exempt from garnishment, attachment, execution, or other seizure, state and local taxation, levies, sales, and any other process and are unassignable.

SECTION 1.24. (a) All agreements made and obligations incurred by the Texas Boll Weevil Eradication Foundation, Inc., before the effective date of this Act are validated, ratified, and confirmed. The foundation's members, directors, officers, employees, and agents are not individually liable for, or in connection with, any agreement or obligation validated under this section.

(b) Except for instances of gross negligence, individual criminal actions, or acts of dishonesty, the foundation's members, directors, officers, and employees are not individually liable to a cotton grower or other person for errors in judgment, mistakes, or other acts or omissions made or occurring before the effective date of this Act under the authority of Subchapter D, Chapter 74, Agriculture Code, as originally enacted or subsequently amended.

(c) This section does not make any obligation validated, ratified, or confirmed under this section a debt of this state.

SECTION 1.25. (a) Assessments approved on February 28, 1994, for the Southern Rolling Plains Boll Weevil Eradication Zone, on December 1, 1994, and August 2, 1996, for the Central Rolling Plains Boll Weevil Eradication Zone, and on February 16, 1995, for the South Texas/Winter Garden Boll Weevil Eradication Zone, and all agreements and obligations of the Texas Boll Weevil Eradication Foundation, Inc., related to the statutory zones made or approved before the effective date of this Act are validated, ratified, and confirmed.

(b) Not later than one year after the effective date of this Act, the commissioner of agriculture shall hold a retention referendum and board election in each statutory zone to determine the continued necessity of an eradication program under Section 74.114, Agriculture Code, as amended by this Act. The retention referendum will be determined by a vote of the majority of the cotton growers.

(c) The commissioner of agriculture may, in each statutory zone, solicit public comment through public hearings to determine whether to divide any of the statutory zones as defined in Section 74.1021, Agriculture Code, as added by this Act. After considering public opinion, the commissioner may by rule divide a statutory zone and fairly apportion any debt to each portion of the divided zone.

SECTION 1.26. The Texas Boll Weevil Eradication Foundation, Inc., shall, not later than 30 days after the effective date of this Act, take whatever steps are necessary to adjust the composition of its board of directors to

permit the commissioner of agriculture to appoint board members in compliance with Section 74.107, Agriculture Code, as amended by this Act. If the foundation does not comply with Section 74.107, Agriculture Code, as amended by this Act, the commissioner may cancel the designations and designate another nonprofit entity that meets the qualifications of Section 74.107, Agriculture Code, as amended by this Act. In the interim, the current directors and officers of the foundation shall remain in office and carry out the foundation's duties under Subchapter D, Chapter 74, Agriculture Code, as amended by this Act.

SECTION 1.27. Sections 74.103 and 74.104, Agriculture Code, are repealed.

#### ARTICLE 2

SECTION 2.01. Sections 74.105(b) and (c), Agriculture Code, are reenacted to read as follows:

(b) Eradication zone referenda shall be conducted under the procedures provided by Section 74.114 of this code.

(c) A proposed eradication zone referendum ballot must include or be accompanied by information about the proposed eradication zone, including:

(1) a statement of the purpose of the boll weevil or pink bollworm eradication program;

(2) the geographic area included in the proposed eradication zone;

(3) a general summary of rules adopted by the commissioner under Sections 74.114, 74.118, and 74.120 of this code, including a description of:

(A) cotton grower responsibilities; and

(B) penalties for noncompliance with rules adopted under this subchapter; and

(4) an address and toll-free telephone number that a cotton grower may use to request more information about the referendum or the boll weevil or pink bollworm eradication program.

SECTION 2.02. Sections 74.106(b), (c), (f), and (g), Agriculture Code, are reenacted to read as follows:

(b) A board election shall be conducted under the procedures provided by this section and Section 74.114 of this code.

(c) On receipt of an application and verification that the application meets the requirements of Subsection (d) of this section, an applicant's name shall be placed on the ballot for the board election.

(f) An eligible voter may vote for a cotton grower whose name does not appear on the official ballot by writing that person's name on the ballot.

(g) A board election must be preceded by at least 45 days notice published in one or more newspapers published and distributed in the proposed or established eradication zone. The notice shall be published not less than once a week for three consecutive weeks. Not later than the 45th day before the date of the election, direct written notice of the election shall be given to each county agent in the eradication zone.

SECTION 2.03. Sections 74.109(b), (c), and (f), Agriculture Code, are reenacted to read as follows:

(b) Not later than the 45th day after the last day of the fiscal year, the board shall submit to the commissioner a report itemizing all income and

expenditures and describing all activities of the foundation during the fiscal year.

(c) The foundation shall provide fidelity bonds in amounts determined by the board for employees or agents who handle funds for the foundation.

(f) The foundation is a governmental unit under Section 101.001, Civil Practice and Remedies Code, and is entitled to governmental immunity. A tort claim against the foundation must be made under Chapter 101, Civil Practice and Remedies Code.

SECTION 2.04. Section 74.111, Agriculture Code, is reenacted to read as follows:

Sec. 74.111. BOARD MEMBER COMPENSATION. Board members serve without compensation but are entitled to reimbursement for reasonable and necessary expenses incurred in the discharge of their duties.

SECTION 2.05. Sections 74.112(a)-(e), Agriculture Code, are reenacted to read as follows:

(a) On the determination by the foundation that the boll weevil eradication program has been completed in all eradication zones established under this subchapter for boll weevil control and the pink bollworm eradication program has been completed in any eradication zone established under this chapter for pink bollworm control, the foundation shall provide notice of such completion to the commissioner along with a request for discontinuance of the eradication program and collection of the assessment. Any such request shall include documentation supporting the eradication of the boll weevil in all eradication zones established for boll weevil eradication or pink bollworm in any eradication zone established for pink bollworm eradication and a plan for discontinuance of the program and assessment.

(b) The commissioner shall determine whether or not the further elimination of the boll weevil or pink bollworm is necessary in the eradication zones and approve or disapprove discontinuance of the foundation and the plan for dissolution.

(c) On completion of dissolution, the foundation shall file a final report with the commissioner, including a financial report, and submit all remaining funds into the trust of the commissioner. Final books of the foundation shall be filed with the commissioner and are subject to audit by the department.

(d) The commissioner shall pay from the foundation's remaining funds all of the foundation's outstanding obligations.

(e) Funds remaining after payment under Subsection (d) of this section shall be returned to contributing cotton growers on a pro rata basis.

SECTION 2.06. Sections 74.114(b), (e), (g), and (j), Agriculture Code, are reenacted to read as follows:

(b) The foundation shall bear all expenses incurred in conducting a referendum or board election.

(e) An eligible cotton grower may vote only once in a referendum or board election.

(g) A referendum is approved if:

(1) at least two-thirds of those voting vote in favor of the referendum; or



(2) those voting in favor of the referendum farm more than 50 percent, as determined by the commissioner, of the cotton acreage in the relevant eradication zone.

(j) Individual voter information, including an individual's vote in a referendum or board election conducted under this section, is confidential and is not subject to disclosure under the open records law, Chapter 552, Government Code.

SECTION 2.07. Section 74.118, Agriculture Code, is reenacted to read as follows:

Sec. 74.118. **AUTHORITY TO PROHIBIT PLANTING OF COTTON AND REQUIRE PARTICIPATION IN ERADICATION PROGRAM.** (a) The commissioner may adopt reasonable rules regarding areas where cotton may not be planted in an eradication zone if there is reason to believe planting will jeopardize the success of the program or present a hazard to public health or safety.

(b) The commissioner may adopt rules prohibiting the planting of noncommercial cotton in eradication zones and requiring that all growers of commercial cotton in an eradication zone participate in a boll weevil or pink bollworm eradication program that includes cost sharing as required by the rules.

(c) Notice of prohibitions and requirements shall be given by publication for one day each week for three successive weeks in a newspaper having general circulation in the affected area.

(d) The commissioner may adopt a reasonable schedule of penalty fees to be assessed against growers in a designated eradication zone who do not meet the requirements of the rules issued by the commissioner relating to reporting of acreage and participation in cost sharing. The penalty fees adopted may not exceed \$50 per acre.

(e) If a grower fails to meet the requirements of rules adopted by the commissioner, the commissioner may order the destruction of cotton not in compliance with the rules. Costs incurred by the commissioner in the destruction of cotton may be assessed against the grower.

SECTION 2.08. Section 74.119, Agriculture Code, is reenacted to read as follows:

Sec. 74.119. **AUTHORITY FOR DESTRUCTION OR TREATMENT OF COTTON IN ERADICATION ZONES; COMPENSATION PAYABLE.** The department may destroy or treat volunteer or other noncommercial cotton and establish procedures for the purchase and destruction of commercial cotton in eradication zones if the department determines the action is necessary to carry out the purposes of this subchapter. The department is not liable to the owner or lessee for the destruction of or injury to any cotton that was planted in an eradication zone after publication of notice as provided by this subchapter. The foundation is liable for the destruction of cotton if the cotton was planted in an eradication zone before publication of the notice.

SECTION 2.09. Section 74.120(a), Agriculture Code, is reenacted to read as follows:

(a) The commissioner shall adopt rules to protect individuals, livestock, wildlife, and honeybee colonies on any premises in an eradication zone on

which cotton plants are being grown that have been or are being treated to eradicate the boll weevil or the pink bollworm.

SECTION 2.10. Section 74.122, Agriculture Code, is reenacted to read as follows:

Sec. 74.122. QUARANTINE. The department may adopt rules relating to quarantining areas of this state that are infested with the boll weevil or the pink bollworm. The rules must address the storage of regulated articles and the movement of regulated articles into and out of a quarantined area. The department may also adopt rules governing the movement of regulated articles from other states into this state if the articles are known to be infested with the boll weevil or the pink bollworm.

SECTION 2.11. Section 74.123, Agriculture Code, is reenacted to read as follows:

Sec. 74.123. DOCUMENTING REGULATED ARTICLES. To implement this subchapter, the department may issue or authorize issuance of:

(1) a certificate that indicates that a regulated article is not infested with the boll weevil or the pink bollworm; and

(2) a permit that provides for the movement of a regulated article to a restricted designation for limited handling, use, or processing.

SECTION 2.12. Section 74.124(b), Agriculture Code, is reenacted to read as follows:

(b) An agreement entered into under this section may provide for cost sharing and for division of duties and responsibilities under this subchapter and may include other provisions to carry out the purposes of this subchapter.

SECTION 2.13. Sections 74.126(a) and (b), Agriculture Code, are reenacted to read as follows:

(a) A person who violates this subchapter or a rule adopted under this subchapter or who alters, forges, counterfeits, or uses without authority a certificate, permit, or other document issued under this subchapter or under a rule adopted under this subchapter commits an offense.

(b) An offense under this section is a Class C misdemeanor.

SECTION 2.14. Section 74.127, Agriculture Code, is reenacted to read as follows:

Sec. 74.127. SUNSET PROVISION. (a) The board is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the board is abolished and this subchapter expires September 1, 2004.

(b) The commissioner may order the dissolution of the foundation at any time the commissioner determines that the purposes of this subchapter have been fulfilled or that the foundation is inoperative and abandoned. Dissolution shall be conducted in accordance with Section 74.112 of this code.

(c) If the foundation is abolished or the program discontinued for any reason, assessments approved, levied, or otherwise collectible on the date of abolishment remain valid as necessary to pay the financial obligations of the foundation.

### ARTICLE 3

SECTION 3.01. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an

imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

The amendment was read.

Senator Duncan offered the following amendment to Floor Amendment No. 1:

**Floor Amendment No. 2**

Amend Floor Amendment No. 1 to **CSSB 1814** as follows:

(1) In SECTION 1.02 of the proposed amendment, in added Section 74.1011(b), Agriculture Code, add the following:

Any successor agent to the foundation shall assume and shall be responsible for all obligations and liabilities relating to any notes, security agreements, assignments, loan agreements, and any other contracts or other documents entered into by the foundation with or for the benefit of any financial institution, or its predecessor, successor, or assignee.

(2) In SECTION 1.05 of the proposed amendment, in added Section 74.1041(a), Agriculture Code, between "each" and "geographic", insert "statutory zone or".

(3) In SECTION 1.05 of the proposed amendment, in added Section 74.1041(c), Agriculture Code, between "county" and "and", insert "in the zone".

(4) In SECTION 1.17 of the proposed amendment, in amended Section 74.117, Agriculture Code, strike all added language and substitute the following:

The commissioner shall require that notice be given to a cotton grower of the intent to enter the cotton grower's fields or premises to carry out the purposes of this subchapter. The foundation shall notify a cotton grower of the foundation's intent to treat cotton acres before the actual treatment.

(5) In SECTION 1.25 of the proposed amendment, in Subsection (b), insert the following before the period: "voting in the retention referendum".

The amendment to Floor Amendment No. 1 was read and was adopted by a viva voce vote.

Senator Duncan offered the following amendment to Floor Amendment No. 1:

**Floor Amendment No. 3**

Amend Floor Amendment No. 1 to **CSSB 1814** as follows:

(1) In SECTION 1.09 of the proposed amendment, in amended Section 74.108(b), Agriculture Code, between "zone" and "if", insert "or transfer an area or county from one statutory zone to another zone".

(2) In SECTION 1.20 of the proposed amendment, strike added Section 74.124(c), Agriculture Code, and substitute the following:

(c) Agreements under Subsections (a)(4)-(5) must be approved in each referendum required under this subchapter other than a referendum to discontinue an eradication program. The agreements must be approved by the same margin as required in the retention referendum.

(3) In SECTION 1.25 of the proposed amendment, in Subsection (b), between "statutory zone" and "to", insert "listed in Subsection (a)".

(4) In SECTION 1.25 of the proposed amendment, add Subsection (d) to read as follows:

(d) The commissioner shall conduct an eradication referendum under Section 74.114 in the Southern High Plains-Caprock Eradication Zone not later than August 1, 1997. The commissioner shall comply with the notice requirements of Subchapter D, Chapter 74, Agriculture Code, as amended by this Act, and other law, to the extent reasonable to conduct the eradication referendum required under this subsection.

The amendment to Floor Amendment No. 1 was read and was adopted by a viva voce vote.

Senator Lucio offered the following amendment to Floor Amendment No. 1:

#### **Floor Amendment No. 4**

Amend Floor Amendment No. 1 to CSSB 1814 as follows:

(1) In SECTION 1.01 of the proposed amendment, amend section 74.101(3), Subchapter D, Chapter 74, Agricultural Code to read as follows:

(3) there is a need for a quasi-governmental entity acting under the supervision and control of the commissioner whose members are actual cotton growers who would be represented on the board of the entity by directors elected by them to act as the agent of the department to manage eradication and suppression programs and to furnish expertise in the field of insect control and eradication, because such an entity would enhance the interest and participation of cotton growers in the program; and

(2) In SECTION 1.23 of the proposed amendment, amend Section 74.129, Subchapter D, Chapter 74, Agriculture Code to read as follows:

Sec. 74.129 EXEMPTION FROM LAWSUITS, LIABILITY, TAXATION AND LEGAL PROCESS. The Legislature recognizes that the foundation, acting under the supervision and control of the commissioner, is carrying out an important governmental function and that therefore the foundation, as a quasi-governmental entity, must be immune from lawsuits and liability except to the extent provided in the Texas Tort Claims Act and as set forth below. Therefore, no claims may be brought or continued against the foundation except: (1) as allowed by the Texas Tort Claims Act; and (2) those claims pending against the foundation as of April 30, 1997, plus attorneys' fees and costs of court. With the exception of finally adjudicated claims arising from the Texas Tort Claims Act and claims for assessments, attorneys' fees and costs of court, paid by named plaintiffs in lawsuits pending on or before April 30, 1997, all payments, contributions, funds and

assessments received or held by the foundation under this subchapter are exempt from garnishment, attachment, execution, or other seizure, state and local taxation, levies, sales, and any other process and are unassignable. Nothing herein shall affect or impair any existing or future indebtedness or any existing or future security interest created under a note, security agreement, assignment, or other loan agreement between the foundation and a lender or any judgment, to the extent such judgment allows recovery against the Foundation pursuant to a note, security agreement, loan agreement, or other document.

(3) Amend SECTION 1.25(a) to read as follows:

SECTION 1.25(a) To the extent assessments have not been previously validated, ratified, and confirmed, assessments approved on February 28, 1994, for the Southern Rolling Plains Boll Weevil Eradication Zones, on December 1, 1994 and August 2, 1996, for the Central Rolling Plains Boll Weevil Eradication Zone, and on February 16, 1995, for the South Texas/Winter Garden Boll Weevil Eradication Zone, and all agreements and obligations of the foundation related to these statutory zones made or approved before the effective date of this Act are validated, ratified, and confirmed, and shall continue under this subsection. In any eradication zone existing prior to the effective date of this act, other than zones named in this subsection, assessments are validated, ratified, and confirmed only as to amounts actually collected by the Foundation prior to the effective date of this Act. For purposes of this subsection, any assessments in any such pre-existing zone which have been:

- 1) deposited in the registry of a court of this state on or before April 30, 1997, or
- 2) paid by named plaintiffs in a pleading filed on or before April 30, 1997, in lawsuits against the foundation, are not assessments actually collected by the Foundation.

The amendment to Floor Amendment No. 1 was read and was adopted by a viva voce vote.

Senator Lucio offered the following amendment to Floor Amendment No. 1:

#### **Floor Amendment No. 5**

Amend Floor Amendment No. 1 to CSSB 1814 as follows:

On page 32, between line 12 and 13, insert Section 74.130 to read as follows:

"Sec. 74.130 GROWERS OPTION TO USE BIOLOGICAL CONTROLS.

(a) The Commissioner shall develop rules to allow a cotton grower in the program to use biological pest control methods including but not limited to the use of *Catolaccus Grandis*. Such rules shall take into consideration the following:

- (1) scientific studies and field trials of the effectiveness of a proposed biological control method;
- (2) the feasibility of using a proposed biological control technique within a particular region;

(3) a fair apportionment of cost between the grower and program;

(4) monitoring necessary to establish the success of using a proposed biological control; and,

(5) means to prevent the use of substances that would impede the use of biological controls and would impede the promotion of beneficial insect populations.

(b) A grower choosing to use biological controls shall notify the Board of the decision. The Board and the grower shall coordinate their actions to prevent the use of substances that would impede the use of biological controls and would impede the promotion of beneficial insect populations."

The amendment to Floor Amendment No. 1 was read.

On motion of Senator Duncan, Floor Amendment No. 5 was tabled by the following vote: Yeas 16, Nays 12.

Yeas: Bivins, Cain, Carona, Duncan, Ellis, Fraser, Galloway, Harris, Haywood, Lindsay, Nelson, Nixon, Ogden, Patterson, Shapiro, Wentworth.

Nays: Armbrister, Barrientos, Brown, Gallegos, Lucio, Madla, Moncrief, Shapleigh, Sibley, Truan, Whitmire, Zaffirini.

Absent: Luna, Ratliff.

Absent-excused: West.

Senator Armbrister offered the following amendment to Floor Amendment No. 1:

**Floor Amendment No. 6**

Amend Floor Amendment No. 1 to **CSSB 1814** in SECTION 1.04 of the proposed amendment, in added Section 74.1021(d), Agriculture Code, by striking from the first sentence "Colorado," "Jackson," "Matagorda," and "Wharton," and by inserting the following at the end of the paragraph: The commissioner may not propose that Colorado, Jackson, Matagorda, or Wharton County be included in the zone for any purpose.

The amendment to Floor Amendment No. 1 was read.

On motion of Senator Duncan, Floor Amendment No. 6 was tabled by the following vote: Yeas 20, Nays 8.

Yeas: Bivins, Brown, Carona, Duncan, Ellis, Fraser, Harris, Haywood, Lindsay, Luna, Nelson, Nixon, Ogden, Patterson, Shapiro, Shapleigh, Truan, Wentworth, Whitmire, Zaffirini.

Nays: Armbrister, Barrientos, Gallegos, Galloway, Lucio, Madla, Moncrief, Sibley.

Absent: Cain, Ratliff.

Absent-excused: West.

Senator Armbrister offered the following amendment to Floor Amendment No. 1:

**Floor Amendment No. 7**

Amend Floor Amendment No. 1 to **CSSB 1814** in SECTION 1.04 of the proposed amendment, in added Section 74.1021(d), Agriculture Code, by striking "Brazoria and Fort Bend" and substituting "Brazoria, Colorado, Fort Bend, Jackson, Matagorda, and Wharton".

The amendment to Floor Amendment No. 1 was read and was adopted by a viva voce vote.

Question recurring on the adoption of Floor Amendment No. 1 as amended, the amendment as amended was adopted by a viva voce vote.

**CSSB 1814** as amended was passed to engrossment by a viva voce vote.

**COMMITTEE SUBSTITUTE  
SENATE BILL 1814 ON THIRD READING**

Senator Duncan moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 1814** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: West.

**CSSB 1814** was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

**GUESTS PRESENTED**

Senator Luna was recognized and introduced to the Senate a group of students and their teachers from John Glenn Elementary School in San Antonio.

The Senate welcomed its guests.

**GUESTS PRESENTED**

Senator Brown was recognized and introduced to the Senate a group of sixth-grade students and their teachers from Sam Jamison Middle School in Pearland.

The Senate welcomed its guests.

**GUESTS PRESENTED**

Senator Luna was recognized and introduced to the Senate a group of students and their teachers from Fenwick Elementary School in San Antonio.

The Senate welcomed its guests.

**MESSAGE FROM THE HOUSE**

HOUSE CHAMBER

Austin, Texas

Friday, May 16, 1997

The Honorable President of the Senate  
Senate Chamber  
Austin, Texas

Mr. President:

I am directed by the House to inform the Senate that the House has taken the following action:

**THE HOUSE HAS PASSED THE FOLLOWING MEASURES:**

**HCR 238**, Conferring the Texas Legislative Medal of Honor on Technical Sergeant James M. Logan.

Respectfully,

/s/Sharon Carter, Chief Clerk  
House of Representatives

**HOUSE CONCURRENT RESOLUTION 238**

The Presiding Officer, Senator Sibley in Chair, laid before the Senate the following resolution:

**HCR 238**, Conferring the Texas Legislative Medal of Honor on Technical Sergeant James M. Logan.

PATTERSON

The resolution was read.

On motion of Senator Patterson and by unanimous consent, the resolution was considered immediately and was adopted by a viva voce vote.

**HOUSE BILL 621 ON SECOND READING**

On motion of Senator Patterson and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**HB 621**, Relating to the establishment of the Texas Chiropractic College as a public institution of higher education.

The bill was read second time and was passed to third reading by a viva voce vote.

**RECORD OF VOTE**

Senator Ogden asked to be recorded as voting "Nay" on the passage of the bill to third reading.



**HOUSE BILL 621 ON THIRD READING**

Senator Patterson moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 621** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 1.

Nays: Ogden.

Absent-excused: West.

**HB 621** was read third time and was passed by the following vote: Yeas 29, Nays 1. (Same as previous roll call)

**HOUSE BILLS ON FIRST READING**

The following bills received from the House were read first time and referred to the committees indicated:

**HB 1175** to Committee on Jurisprudence.

**HB 1756** to Committee on Jurisprudence.

**HB 2254** to Committee of the Whole Senate on Legislative and Congressional Redistricting.

**HB 2396** to Committee on Criminal Justice.

**HB 2948** to Committee on Finance.

**HB 2981** to Committee on Natural Resources.

**SENATE RULES SUSPENDED  
(Posting Rules)**

On motion of Senator Lucio and by unanimous consent, Senate Rule 11.11 and Senate Rule 11.19 were suspended in order that the Committee on Intergovernmental Relations might meet and consider the following bills today: **HB 3603, SB 1957**

**SENATE RULE 11.19 SUSPENDED  
(Posting Rule)**

On motion of Senator Zaffirini and by unanimous consent, Senate Rule 11.19 was suspended in order that the Committee on Health and Human Services might consider the following bills today:

**HB 3054, HB 3075, HB 2856, HB 3018, HB 119, HB 1784, HB 2481, HB 2913**

**CONFERENCE COMMITTEE ON HOUSE BILL 506**

Senator Luna called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 506** and moved that the request be granted.

The motion prevailed.

The Presiding Officer asked if there were any motions to instruct the conference committee on **HB 506** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate on the bill: Senators Luna, Chair; Cain, Duncan, Ellis, and Shapleigh.

**SENATE RULE 11.19 SUSPENDED  
(Posting Rule)**

On motion of Senator Brown and by unanimous consent, Senate Rule 11.19 was suspended in order that the Committee on Natural Resources might consider the following bills tomorrow:

**HB 2705, HB 1960**

**SENATE RULE 11.19 SUSPENDED  
(Posting Rule)**

On motion of Senator Truan, on behalf of Senator Ratliff, and by unanimous consent, Senate Rule 11.19 was suspended in order that the Committee on Finance might consider the following bills and resolution tomorrow: **HB 2948, SJR 37, HB 3513**

**PERMISSION TO MEET GRANTED**

On motion of Senator Truan and by unanimous consent, Senate committees were granted permission to meet while the Senate was At Ease.

**MOTION TO ADJOURN**

On motion of Senator Truan and by unanimous consent, the Senate at 11:59 a.m. agreed to adjourn, subject to the receipt of Messages from the House and the introduction of bills and resolutions on first reading, until 9:00 a.m. tomorrow.

**AT EASE**

The Presiding Officer, Senator Sibley in Chair, at 12:00 noon announced the Senate would stand At Ease subject to the call of the Chair.

**IN LEGISLATIVE SESSION**

Senator Harris at 3:19 p.m. called the Senate to order as In Legislative Session.

**MESSAGE FROM THE HOUSE**

**HOUSE CHAMBER  
Austin, Texas  
Friday, May 16, 1997**

The Honorable President of the Senate  
Senate Chamber  
Austin, Texas  
Mr. President:

I am directed by the House to inform the Senate that the House has taken the following action:

**THE HOUSE HAS PASSED THE FOLLOWING MEASURES:**

**HB 1465**, Relating to the regulation of staff leasing services companies; providing penalties.

**HB 1645**, Relating to cancellation of the voter registrations of persons who are not United States citizens; providing a penalty.

**HB 1800**, Relating to state-administered assessment instruments for students in special education programs.

**HB 1914**, Relating to the powers and duties of the Children's Trust Fund of Texas Council.

**HB 2155**, Relating to the enforcement of possession orders by the Title IV-D agency.

**HB 2169**, Relating to the liability of emergency service organizations.

**HB 2607**, Relating to the juvenile board of Red River County.

**HB 2736**, Relating to risk pools established by political subdivisions to provide liability coverage.

**HB 2887**, Relating to promotional or educational activities of title insurance entities.

**HB 3151**, Relating to optional contracts by certain conservation and reclamation districts to make payments in exchange for a deferral of annexation to cities with a population in excess of 1,600,000 to be used for the supply of treated surface water and providing for alternatives for non-participating districts.

**HB 3157**, Relating to excepting certain legislative documents from required disclosure under the open records law.

**HB 3249**, Relating to school buses; providing a penalty.

**HB 3339**, Relating to dismissal of a condemnation proceeding.

**HB 3428**, Relating to financial assistance and related services for victims of family violence.

**HB 3605**, Relating to the assignment of the judge of the County Court at Law of Nolan County.

**HB 3609**, Relating to the boundaries, powers, administration, duties, finances, contracts, and terms of directors of the Upper Leon River Municipal Water District.

**HCR 5**, Designating picante sauce as the Official State Sauce of Texas.

**HCR 83**, Designating buckminsterfullerene the official State Molecule of Texas.

**HCR 96**, Granting Benita Fogarty permission to sue the state.

**HCR 144**, Creating a special committee to designate Texas State Artists.

**HCR 217**, Memorializing Congress to restore the federal income tax deductibility of state sales taxes.

**HCR 271**, Instructing the enrolling clerk of the house to make a technical correction in H.B. No. 606.

**HCR 273**, Instructing the enrolling clerk of the house to make corrections in H.B. 3.

**SCR 57**, Naming the Brachiosaur Sauropod, Pleurocoelus, the official Lone Star State Dinosaur.  
(Amended)

THE HOUSE HAS CONCURRED IN SENATE AMENDMENTS TO THE FOLLOWING MEASURES:

**HB 906** (Viva-voce vote)

**HB 1112** (Viva-voce vote)

**HB 2510** (Viva-voce vote)

THE HOUSE HAS REFUSED TO CONCUR IN SENATE AMENDMENTS TO THE FOLLOWING MEASURES AND REQUESTS THE APPOINTMENT OF A CONFERENCE COMMITTEE TO ADJUST THE DIFFERENCES BETWEEN THE TWO HOUSES:

**HB 1550**

House Conferees: Goodman - Chair/Hightower/McClendon/Naishtat/Williams

THE HOUSE HAS PASSED THE FOLLOWING MEASURES:

**SB 66**, Relating to notice to the public and to public officials concerning activities affecting certain community corrections facilities.

**SB 85**, Relating to surrogate decision making.

**SB 113**, Relating to the duty of the pardons and paroles division of the Texas Department of Criminal Justice to notify law enforcement of a prisoner's pending release or transfer to a halfway house.

**SB 208**, Relating to disclosure of certain information regarding certain patients of a physician.

**SB 262**, Relating to employment in a nursing home or other facility serving the elderly or disabled.

**SB 320**, Relating to exempting officers and employees of political subdivisions of this state from certain interest payments in regard to unclaimed property claims.

**SB 412**, Relating to maximizing federal reimbursement for certain foster care program costs.

**SB 483**, Relating to the salary of an official court reporter.

**SB 566**, Relating to requiring the Texas Department of Transportation to conduct a study on the highway transportation needs of the state because of increased international trade under the North American Free Trade Agreement.

**SB 605**, Relating to the movement of portable building units and compatible cargo over a state highway.

- SB 620**, Relating to durable powers of attorney.
- SB 682**, Relating to advertisements for certain health benefit plans.
- SB 703**, Relating to the consolidation of the fiscal and program audit functions of the Texas Department of Criminal Justice.
- SB 725**, Relating to the qualification of a personal care facility as a community home.
- SB 874**, Relating to certain reimbursements of expenses for members of the Texas State Board of Examiners of Marriage and Family Therapists.
- SB 909**, Relating to certain electronic benefits transfer accounts that are inactive.
- SB 970**, Relating to certain district courts in Bexar County.
- SB 975**, Relating to the disclosure of health care information by certain health care providers.
- SB 1057**, Relating to the composition of and certain services operated by the Texas Department of Mental Health and Mental Retardation.
- SB 1165**, Relating to health care services under the state Medicaid program for children with special health care needs.
- SB 1177**, Relating to the publication of the Texas Register.
- SB 1273**, Relating to the sale of alarm products or services and burglary detection devices.
- SB 1290**, Relating to the authority of an insurance agent to sell insurance covering a vehicle that is security for a sale or lease contract.
- SB 1304**, Relating to funds tendered into the registry of the court.
- SB 1333**, Relating to reporting of representation before state agencies by state officers and employees.
- SB 1334**, Relating to reporting concerning fundraising for governor for a day and speaker's reunion day ceremonies.
- SB 1385**, Relating to the use of videoconferencing technology by the office of the attorney general.
- SB 1406**, Relating to the duties and operations of a watermaster's office, reimbursement of the Texas Natural Resource Conservation Commission for the compensation and necessary expenses of a watermaster's office, and creation of the watermaster fund.
- SB 1544**, Relating to public access to certain personal information about employees of the Texas Department of Criminal Justice and certain law enforcement personnel.
- SB 1568**, Relating to a retirement health trust for firefighters and police officers of certain municipalities.
- SB 1574**, Relating to the health care provider network of the state Medicaid program health care delivery system.

**SB 1609**, Relating to the administration of the Uniform Act for out-of-state probationer and parolee supervision.

**SB 1610**, Relating to the county jail work release program and to participation by certain inmates of the Texas Department of Criminal Justice, with the approval of a sheriff, in that program.

**SB 1631**, Relating to the issuance of permits for the movement of oversize and overweight vehicles.

**SB 1849**, Relating to the designation of a portion of United States Highway 281 in Bexar County as the Congressman Frank M. Tejeda Memorial Highway.

**SB 1878**, Relating to authorizing certain municipal utility districts to repair and maintain streets and to issue bonds for that purpose.

Respectfully,

/s/Sharon Carter, Chief Clerk  
House of Representatives

#### **AT EASE**

The Presiding Officer, Senator Harris in Chair, at 3:20 p.m. announced the Senate would stand At Ease subject to the call of the Chair.

#### **IN LEGISLATIVE SESSION**

Senator Duncan at 5:15 p.m. called the Senate to order as In Legislative Session.

#### **MESSAGE FROM THE HOUSE**

##### **HOUSE CHAMBER**

Austin, Texas

Friday, May 16, 1997

The Honorable President of the Senate  
Senate Chamber  
Austin, Texas

Mr. President:

I am directed by the House to inform the Senate that the House has taken the following action:

#### **THE HOUSE HAS PASSED THE FOLLOWING MEASURES:**

**HCR 275**, Congratulating Lori Bennington on being named the 1997 Educator of the Year by the Midland Association for Retarded Citizens.

**SB 213**, Relating to the establishment of a child-care training center pilot program for certain recipients of public assistance.  
(Amended)

**SB 273**, Relating to development of a statewide consumer guide for senior citizens.  
(Committee Substitute)

**SB 712**, Relating to certain duties regarding family law proceedings performed by clerks of the court and certain law enforcement officers and parties to the suit.

(Committee Substitute)

**SB 932**, Relating to abolishing the Texas Department of Commerce and the Texas Agricultural Finance Authority and transferring the powers and duties of the agencies to the newly created Texas Economic Development Agency to administer state agency loan and loan guarantee programs and to engage in capital formation initiatives to further the state's economic and agricultural development goals.

(Committee Substitute/Amended)

**SB 1017**, Relating to training for members of appraisal review boards and to the qualifications of the members of appraisal review boards.

(Amended)

**SB 1040**, Relating to programs of institutions of higher education that address small business research and development.

(Committee Substitute)

**SB 1163**, Relating to information and training about Medicaid managed care.

(Amended)

**SB 1164**, Relating to Medicaid managed care contract compliance.

(Amended)

**SB 1175**, Relating to recall elections to remove a member of the board of directors of a municipal utility district.

(Committee Substitute)

**SB 1248**, Relating to intermediate care facilities for the mentally retarded; imposing civil and criminal penalties.

(Amended)

**SB 1310**, Relating to historic structures, including the restoration and preservation of historic structures by municipalities.

(Amended)

**SB 1368**, Relating to the enforcement of certain traffic laws by private institutions of higher education.

(Amended)

**SB 1391**, Relating to establishing and maintaining a county road.

(Amended)

**SB 1517**, Relating to the repeal of certain advisory committees of the Texas Department of Health.

(Amended)

**SB 1622**, Relating to the creation of the Lubbock Reese Redevelopment Authority.

(Committee Substitute/Amended)

**SB 1630**, Relating to motor vehicle registrations.

(Committee Substitute/Amended)

**SB 1765**, Relating to certification of certain persons who practice acupuncture.  
(Amended)

**SB 1899**, Relating to the creation, administration, powers, duties, operation, and financing of the Pine Island Bayou Stormwater Control District; granting the authority to issue bonds and impose taxes; granting the power of eminent domain.  
(Amended)

**HB 137**, Relating to the qualifications of certain charitable organizations for an exemption from ad valorem taxation.

**HB 297**, Relating to certain signs controlling use of traffic lanes.

**HB 306**, Relating to the law that applies to activities conducted over the Internet.

**HB 328**, Relating to an exemption to the licensing requirements for irrigators.

**HB 464**, Relating to certain information that must be disclosed in political advertising.

**HB 978**, Relating to the eligibility of certain higher education employees to participate in group programs under the Texas Employees Uniform Group Insurance Benefits Act.

**HB 998**, Relating to the conflict-of-interests prohibition applying to a local official who has a substantial interest in a business entity.

**HB 1153**, Relating to the powers and duties of the missing children and missing persons information clearinghouse.

**HB 1292**, Relating to the custody of certain children who commit traffic or other offenses punishable by fine only.

**HB 1693**, Relating to authorizing the state jail division of the Texas Department of Criminal Justice to house county jail inmates in a state jail felony facility.

**HB 1726**, Relating to an integrated pest management program at an institution of higher education or school district.

**HB 1749**, Relating to the right of certain lessees of real property to protest before an appraisal review board a determination of the appraised value of the property for ad valorem tax purposes.

**HB 1922**, Relating to cancelling or prohibiting the issuance of certain original or renewal alcoholic beverage permits or licenses for nonpayment of ad valorem taxes.

**HB 2103**, Relating to restrictions on the siting of solid waste facilities and to the Texas Natural Resource Conservation Commission's consideration of cumulative risks in certain administrative proceedings.

**HB 2198**, Relating to the issuance of Texas Commission on Alcohol and Drug Abuse license plates.



**HB 2213**, Relating to municipal and county policies regarding enforcement of certain drug laws.

**HB 2321**, Relating to nursing home bed certification and decertification.

**HB 2380**, Relating to the abolition of unnecessary governmental entities.

**HB 2731**, Relating to the creation of the First Colony Management District.

**HB 2837**, Relating to certain filing fees and salaries of judges in the statutory county courts of certain counties.

**HB 3019**, Relating to permit exemptions under the Texas Clean Air Act for construction or modification of certain facilities.

**HB 3475**, Relating to facilitating the organization and availability of government information.

**HB 3544**, Relating to the justice of the peace courts of Harris County.

**HCR 151**, Directing TDHS to take steps to expand community options for long-term care.

Respectfully,

/s/Sharon Carter, Chief Clerk  
House of Representatives

**AT EASE**

The Presiding Officer, Senator Duncan in Chair, at 5:16 p.m. announced the Senate would stand At Ease subject to the call of the Chair.

**IN LEGISLATIVE SESSION**

Senator Armbrister at 6:43 p.m. called the Senate to order as In Legislative Session.

**MESSAGE FROM THE HOUSE**

HOUSE CHAMBER

Austin, Texas

Friday, May 16, 1997

The Honorable President of the Senate  
Senate Chamber  
Austin, Texas

Mr. President:

I am directed by the House to inform the Senate that the House has taken the following action:

**THE HOUSE HAS PASSED THE FOLLOWING MEASURES:**

**HB 489**, Relating to the applicability of a sexual offender registration program to certain defendants and to the procedures used to register and monitor sex offenders.

**HB 2250**, Relating to child protective services provided by the Department of Protective and Regulatory Services.

**HB 2750**, Relating to certain municipal firefighters and police officers entitled to additional wages; providing a civil penalty.

**HB 3258**, Relating to the implementation of the Medicaid managed care program.

**HCR 26**, Granting The Burnett Companies, doing business as Burnett Personnel Services, permission to sue the State of Texas and the Texas Department of Banking.

**HCR 118**, Granting Dick Corporation permission to sue the State of Texas and the Texas Department of Criminal Justice.

**HCR 132**, Encouraging the Texas Board of Criminal Justice, Texas Youth Commission, Juvenile Probation Commission, county commissioners, and sheriffs to support faith-based correctional programming and facilities.

**HCR 137**, Memorializing Congress to create a NAFTA Trade Impact Fund.

Respectfully,

/s/Sharon Carter, Chief Clerk  
House of Representatives

#### HOUSE BILLS AND RESOLUTIONS ON FIRST READING

The following bills and resolutions received from the House were read first time and referred to the committees indicated:

- HB 137** to Committee on Finance.
- HB 297** to Committee on State Affairs.
- HB 306** to Committee on International Relations, Trade, and Technology.
- HB 328** to Committee on Natural Resources.
- HB 464** to Committee on State Affairs.
- HB 489** to Committee on Criminal Justice.
- HB 772** to Committee of the Whole Senate on Legislative and Congressional Redistricting.
- HB 951** to Committee on State Affairs.
- HB 978** to Committee on State Affairs.
- HB 998** to Committee on Intergovernmental Relations.
- HB 1055** to Committee on State Affairs.
- HB 1153** to Committee on Health and Human Services.
- HB 1292** to Committee on Criminal Justice.
- HB 1465** to Committee on Economic Development.
- HB 1507** to Committee on Jurisprudence.
- HB 1645** to Committee on Jurisprudence.
- HB 1693** to Committee on Criminal Justice.
- HB 1726** to Committee on Education.
- HB 1749** to Committee on Intergovernmental Relations.
- HB 1800** to Committee on Education.
- HB 1914** to Committee on Health and Human Services.
- HB 1922** to Committee on State Affairs.

HB 2103 to Committee on Natural Resources.  
HB 2155 to Committee on Jurisprudence.  
HB 2169 to Committee on Jurisprudence.  
HB 2198 to Committee on Finance.  
HB 2213 to Committee on Intergovernmental Relations.  
HB 2250 to Committee on Health and Human Services.  
HB 2273 to Committee on Jurisprudence.  
HB 2321 to Committee on Health and Human Services.  
HB 2328 to Committee on State Affairs.  
HB 2380 to Committee on State Affairs.  
HB 2383 to Committee on Finance.  
HB 2435 to Committee on Criminal Justice.  
HB 2516 to Committee on Criminal Justice.  
HB 2520 to Committee on State Affairs.  
HB 2607 to Committee on Jurisprudence.  
HB 2650 to Committee on Jurisprudence.  
HB 2731 to Committee on Intergovernmental Relations.  
HB 2736 to Committee on Intergovernmental Relations.  
HB 2750 to Committee on Intergovernmental Relations.  
HB 2837 to Committee on Jurisprudence.  
HB 2887 to Committee on State Affairs.  
HB 3019 to Committee on Natural Resources.  
HB 3151 to Committee on Intergovernmental Relations.  
HB 3157 to Committee on State Affairs.  
HB 3216 to Committee on Economic Development.  
HB 3244 to Committee on Criminal Justice.  
HB 3249 to Committee on Education.  
HB 3258 to Committee on Health and Human Services.  
HB 3339 to Committee on Jurisprudence.  
HB 3373 to Committee on Criminal Justice.  
HB 3412 to Committee on Economic Development.  
HB 3428 to Committee on Health and Human Services.  
HB 3475 to Committee on State Affairs.  
HB 3544 to Committee on Jurisprudence.  
HB 3605 to Committee on Jurisprudence.  
HB 3609 to Committee on Natural Resources.  
HCR 5 to Committee on Administration.  
HCR 26 to Committee on Finance.  
HCR 83 to Committee on Administration.  
HCR 96 to Committee on Jurisprudence.  
HCR 118 to Committee on Finance.  
HCR 137 to Committee on International Relations, Trade, and  
Technology.  
HCR 144 to Committee on Administration.  
HCR 151 to Committee on Health and Human Services.  
HCR 217 to Committee on Finance.

#### CONGRATULATORY RESOLUTIONS

SR 753 - by Ellis: Congratulating the Mamie Charity Club and Youth  
Auxiliary of Houston.

**SR 754** - by Ellis: Congratulating the Missouri City/Houston Metro Chapter of National Women of Achievement, Incorporated.

**SR 756** - by Ellis: Congratulating the Mabrie Memorial Mortuary in Houston.

**SR 757** - by Patterson: Commending Erica Kaye Waitschies.

**SR 758** - by Patterson: Congratulating Charles Puryear.

**SR 761** - by Truan: Honoring Rodolfo Mirabal and Robert Mirabal of Corpus Christi.

**SR 762** - by Barrientos: Commending all those involved in the peaceful compromise in the Fort Davis area.

#### **MISCELLANEOUS RESOLUTIONS**

**SR 759** - by Patterson: Declaring May 18 through May 24, 1997, National Association of Insurance Women Week.

**SR 760** - by Patterson: Declaring May, 1997, as Wetlands Month in Texas.

**HCR 231** - (Luna): Designating May 1997 as Older Americans Month.

#### **ADJOURNMENT**

Pursuant to a previously adopted motion, the Senate at 6:50 p.m. adjourned until 9:00 a.m. tomorrow.

---

#### **APPENDIX**

---

#### **COMMITTEE REPORTS**

The following committee reports were received by the Senate:

May 16, 1997

**NATURAL RESOURCES — CSHB 2776, CSSB 1954**

**JURISPRUDENCE — HB 1990 (Amended), HB 2309**

**EDUCATION — CSSB 1019, CSHB 1548**

**INTERGOVERNMENTAL RELATIONS — HB 2577 (Amended), CSHB 970, HB 1161 (Amended)**

**EDUCATION — CSHB 1468**

**INTERGOVERNMENTAL RELATIONS — HB 580 (Amended)**

**CRIMINAL JUSTICE — HB 462, HB 500, HB 844, HB 907, HB 1229, HB 1233, HB 2825, HB 2830, HB 3572, HB 3588**

**NATURAL RESOURCES — HB 574, HB 827, HB 1144, HB 3330, HB 3579, HB 3586, HB 3589, HB 3597, HB 1052, HB 3492, HB 3567, SB 1955**

NANCE — HB 3271, HB 3250, HB 3189, HB 3027, HB 2798, B 2747, HB 2564, HB 2157, HB 1209, HB 846, HB 733, HB 571

STATE AFFAIRS — HCR 2, HCR 67, HB 2332 (Amended), HB 2382 (Amended), CSHB 251, HB 2424, HB 2318, HB 163, HB 1790, HB 220, B 2600, HB 2906, HB 1811, HB 2512, HB 3448, HB 2606, HB 2469, B 2997, HB 2877, HB 3176, HB 3074, HB 3366, HB 3367, HB 1780, B 814, HB 3585, HB 1338, HB 1937, HB 1812, HB 1723, HB 1703, B 1473, HB 1667, HB 979, HB 1062, HB 1843 (Amended), HB 1961 (Amended), HB 1856 (Amended), CSHB 2703, CSHB 2644, CSHB 2098, SHB 3370

ECONOMIC DEVELOPMENT — HB 3031, HB 1853, HB 3197, B 3161, HB 839, HB 2438, HB 219, CSHB 381, CSHB 812, SHB 2033, CSHB 1476, CSHB 2437, CSHB 3383

INTERGOVERNMENTAL RELATIONS — HB 2446 (Amended), HB 1294 (Amended), CSSB 1866

EDUCATION — CSHB 1611, CSHB 836, CSHB 3112, CSHB 1640

CRIMINAL JUSTICE — HB 3062 (Amended), CSHB 2561, CSHB 818, B 438 (Amended)

HEALTH AND HUMAN SERVICES — HB 3100, HB 2099, HB 446, B 2386, HB 2626, HB 2618, HB 155, HB 2084

INTERGOVERNMENTAL RELATIONS — CSHB 1891, HB 3587, B 2850, HB 2462, HB 3591, HB 2345, HB 2868, HB 3583, HB 130, B 3603, HB 3594

STATE AFFAIRS — CSHB 3306

#### SIGNED BY GOVERNOR

May 14, 1997

B 217

May 15, 1997

B 293, SB 338, SB 400, SB 445, SB 638, SCR 46, SCR 67, SCR 76

#### SENT TO GOVERNOR

May 16, 1997

B 67, SB 170, SB 201, SB 264, SB 303, SB 323, SB 394, SB 396, SB 403, B 417, SB 459, SB 478, SB 514, SB 569, SB 570, SB 580, SB 591, SB 600, B 623, SB 625, SB 698, SB 706, SB 771, SB 786, SB 843, SB 928, SB 939, B 973, SB 991, SB 1007, SB 1014, SB 1016, SB 1033, SB 1108, SB 1127, B 1150, SB 1179, SB 1202, SB 1211, SB 1388, SB 1663, SB 1922

#### SIGNED BY GOVERNOR

May 16, 1997

B 998, SB 1706

